



## **COOPERATIVE AGREEMENT** **FUNDING RESTRICTIONS**

**FOR COOPERATIVE AGREEMENT #1U60OE000103 (CFDA NO. 93.322) with  
the U.S. Centers for Disease Control and Prevention (CDC)**

These Cooperative Agreement Funding Restrictions (the "Funding Restrictions") have been attached as Exhibit A to a Project Agreement (as defined in Section 1 of these Funding Restrictions) between APHL (as defined in the Project Agreement) and the Counterparty (as defined in Section 1 of these Funding Restrictions) and have been incorporated into that Project Agreement by reference. These Funding Restriction, together with the Project Agreement and, if the Project Agreement is a Work Order, the Standard Terms and Conditions, make up the entire Agreement (as defined in the Project Agreement) between the Parties (as defined in the Project Agreement).

**1. Definitions.**

A. The term "Counterparty" is used in these Funding Restrictions to refer to either (i) the Contractor under the Work Order or (ii) the Subrecipient under the Subaward Agreement, as applicable.

B. The term "Maximum Amount" is used in these Funding Restrictions to refer to either (i) the Maximum Compensation Amount under the Work Order or (ii) the Maximum Assistance Amount under the Subaward Agreement, as applicable.

C. The term "Project Agreement" is used in these Funding Restrictions to refer to either (i) the Work Order or (ii) the Subaward Agreement, as applicable, to which these Funding Restrictions are attached as Exhibit A.

**2. Compliance with Funding Conditions.** This project is funded through the Cooperative Agreement (as defined in the Project Agreement) between APHL and the Centers for Disease Control and Prevention ("CDC"). The Counterparty will comply with the terms and conditions of the Cooperative Agreement.

**3. Uniform Administrative Requirements.** The US Office of Management and Budget's Uniform Administrative Requirements (the "UAR") found at 2 CFR Part 200, as implemented by the US Department of Health and Human Services ("DHHS") at 45 CFR Part 75, apply to the terms of the Agreement. An electronic copy of DHHS' UAR is currently available at <http://www.ecfr.gov/cgi-bin/textidx?node=pt45.1.75> and the Counterparty will ensure that it has reviewed the applicable provision and will conduct the Project (as defined in the Project Agreement) in compliance with the UAR terms.

4. **HHS Grants Policy Statement.** The Cooperative Agreement is subject to the terms of the DHHS Grants Policy Statement (dated January 1, 2007), as supplemented by any addenda in effect as of July 1, 2015. An electronic copy of which is currently available at <http://www.hhs.gov/asfr/ogapa/>

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[aboutog/hhsgps107.pdf](http://aboutog/hhsgps107.pdf) and the Counterparty will ensure that it has review the applicable provisions and will conduct the Project in compliance with its terms.

5. **Lower Tier Transactions.** The Counterparty will include the provisions of these Funding Restrictions as conditions of any subcontract or sub-subaward (with the subcontractor or subsubrecipient agreeing to comply with these provisions as if it is the Counterparty). These provisions must be conditions of any subcontract, sub-subcontract, etc., governing a lower tier transaction.
6. **Public Policy Requirements.** The Counterparty will comply with each of the following laws and regulations as applicable to the Cooperative Agreement:
- A. Byrd Anti-Lobbying Amendment (31 U.S.C. §1352);
  - B. Debarment and Suspension (Executive Orders 12549 and 12689);
  - C. Equal Employment Opportunity regulations (Executive Order 11246, as amended by Executive Order 11375 and as supplemented by 41 CFR Part 60);
  - D. Public Health Security and Bioterrorism Preparedness and Response Act of 2002, as amended (42 U.S.C. §§201 et seq.);
  - E. Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, as amended (USA PATRIOT Act) (Pub. L. 107-56); and
  - F. Non-Discrimination Acts, including: (a) Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. §§2000d et seq.) which prohibits discrimination on the basis of race, color or national origin (not applicable to foreign (non-US) organizations); (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex (not applicable to foreign (non-US) organizations); (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicap (not applicable to foreign (non-US) organizations); (d)

the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101 et seq.), which prohibits discrimination on the basis of age (not applicable to foreign (non-US) organizations); (e) the Drug Abuse Office and Treatment Act of 1972 (Pub. L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (Pub. L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912, as amended (42 U.S.C. §§290 dd-3 and 290 ee-3), relating to confidentiality of alcohol and drug abuse patient records; and (h) any other nondiscrimination provisions in the specific statute(s) under which the Cooperative Agreement was made, or any other nondiscrimination statute(s) which may otherwise apply to the Cooperative Agreement.

7. **Bayh-Dole Act.** Inventions conceived or first actually reduced to practice by the Counterparty in the performance of experimental, developmental, or research work under the Agreement are subject to the Bayh-Dole Act (37 CFR Part 401) and the standard patent right clauses (37 CFR Part 401.14).

8. **Equipment & Products.**

A. Purchases of equipment and products under the Agreement are subject to the Buy American Act of 1933, as amended (41 U.S.C. §§8302 *et seq.*), which requires the purchase of American-made equipment and products to the greatest extent practicable.

B. The CDC defines “equipment” as tangible non-expendable personal property (including exempt property) charged directly to the Project Agreement having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit but the Counterparty is permitted to have a lower threshold consistent with its policies. The Counterparty will provide APHL with information or documentation regarding its procurement policies if it has established a lower threshold.

9. **Travel.** Travel within and outside the US under the Agreement is subject to the Fly America Act, as amended (49 U.S.C. §40118), which requires utilization of US-flag carriers to the greatest extent practicable (generally regardless of cost, convenience, and personal travel preferences).

10. **Publications and Publicity.**

A. Any (a) publication, paper or journal article relating to or (b) press release, article, report, or other material publicizing or resulting from the Counterparty’s work or services under the Agreement must include an acknowledgment that the Project was supported by CDC. The Counterparty will use the following disclaimer and acknowledgment of support:

“This publication (journal article, etc.) was supported by the Cooperative Agreement Number U60OE000103, funded by the Centers for Disease Control and Prevention

through the Association of Public Health Laboratories. Its contents are solely the responsibility of the authors and do not necessarily represent the official views of the Centers for Disease Control and Prevention, the Department of Health and Human Services, or the Association of Public Health Laboratories.”

- B.** When issuing statements, press releases, requests for proposals, bid solicitations and other documents describing the Project (as a project funded in whole or in part with federal money) such documents must clearly state:
- i.** the percentage of the total costs of the project which will be financed with Federal money;
  - ii.** the dollar amount of Federal funds for the project or program; and
  - iii.** the percentage and dollar amount of the total costs of the project that will be financed by non-governmental sources.
- C.** Any publication, paper, journal article or any other document published must cite the funding support of all institutes listed below:
- Office of Surveillance, Epidemiology and Laboratory Services (OSELS) (OE)
  - National Center for HIV, STDs and TB Prevention (PS)
  - National Center for Zoonotic, Vector-Borne, and Enteric Diseases (CK)
  - National Center for Immunization and Respiratory Diseases (IP)
  - National Center for Environmental Health (NCEH)
  - National Center for Birth Defects and Developmental Disabilities (NCBDD)
  - Coordinating Office of Global Health (GH)
  - Office of Infectious Diseases (OID) (CH)
  - Coordinating Office for Terrorism Preparedness and Emergency Response (CTPER)
  - Office for State, Tribal, Local and Territorial Support (OT)
- D.** The US Government has a royalty-free, non-exclusive, and irrevocable right to reproduce, publish, and otherwise use publications, data, and other copyrightable works developed by the Counterparty under the Agreement. The US Government may also grant a sublicense of these rights to others to do so for Federal purposes.
- E.** For the purposes of this Section 10 of these Funding Restrictions, “data” means recorded information, regardless of the form or media on which it may be recorded, and includes writings, films, sound recordings, pictorial reproductions, drawings, designs or other graphic representations, procedural manuals, forms, diagrams, work flow charts, equipment descriptions, data files, data processing or computer programs (software), statistical records, and other research data.

**11. Copyright Interests.**

**A.** Pursuant applicable federal grant regulations and the CDC’s Public Access Policy, the Counterparty will submit into the National Institutes of Health (NIH) Manuscript Submission (“NIHMS”) system an electronic version of the final, peer-reviewed manuscript (as defined below) of the work developed under or in connection with the Agreement upon acceptance for publication, to be made publicly available no later than 12 months after the official date of publication. Also at the time of submission, the Counterparty or the Counterparty’s submitting author must specify the date the final manuscript will be publicly accessible through PubMed Central (“PMC”). The Counterparty or the Counterparty’s submitting author must also post the manuscript to PMC within 12 months of the publisher’s official date of final publication; however the Counterparty is strongly encouraged to make the subject manuscript available as soon as possible. The Counterparty must obtain prior written approval from APLH (who, in turn, must obtain prior approval from CDC) for any exception to this provision.

**B.** For purposes of this Section 11 of these Funding Restrictions, the “final, peer-reviewed manuscript” is defined as the final version accepted for journal publication, and includes all modifications from the publishing peer review process, and all graphics and supplemental material associated with the article. The Counterparty and its submitting authorized working under the Agreement are responsible for ensuring that any published or copyright agreements concerning submitted articles reserve adequate right to fully comply with this provision and the licensing reserved by the CDC. The manuscript will be hosted in both PMC and the CDC Stacks institutional repository system. In progress reports for the Project, the Counterparty must identify publications subject to the CDC Public Access Policy by using the applicable NIHMS identification number for up to three months after the publication date and the PMC identification number (PMCID) number thereafter.

**12. Limitations on an Individual’s Salary.** The Consolidated Appropriations Act of 2012 (Pub. L. 11274), as amended, limits the salary amount that may be awarded or charged to the Cooperative Agreement. Cooperative Agreement funds may not be used to pay the salary of an individual at a rate in excess of \$183,300 (the Executive Level II salary in the Federal Executive Pay scale for 2015). Such amount reflects an individual’s base salary exclusive of fringe and any income that an individual may be permitted to earn outside of his or her duties to the Counterparty. Such salary limitation also applies to any subcontracts or sub-subawards issued by the Counterparty for services to or work on the Project under the Project Agreement. The salary limitation does not limit how much salary the Counterparty may pay an individual, but simply limits the amount that may be awarded or charged to Cooperative Agreement funds.

**13. Whistleblower Protections.** In the event that the Maximum Amount is equal to or greater than \$100,000, the following provisions will apply.

- A.** The Agreement and employees of the Counterparty working on the Agreement will be subject to the whistleblower rights and remedies in the pilot program in the Pilot Program for Enhancement of Contractor Employee Whistleblower Protections established at 41 U.S.C. §4712 by Section 828 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112-239) and Federal Acquisition Regulation (“FAR”) §3.908.
  - B.** The Counterparty will inform its employees in writing, in the predominate language of the workforce, of employee whistleblower rights and protections under 41. U.S.C. §4712, as described in §3.908 of FAR.
  - C.** The Counterparty will insert the substance of this Section, including this subsection (C), in all subcontracts over the simplified acquisition threshold.
- 14. Examination of Records.** The Counterparty will cooperate with APHL in the audit of APHL that is required by the UAR audit requirements found at 2 CFR Part 200 Subpart F or contained in the HHS Grants Policy Statement. The Counterparty acknowledges that the standards set forth in 2 CFR Part 200 Subpart F will apply to audits of fiscal years beginning on or after 26 December 2014. The Comptroller General of the United States, DHHS, CDC, APHL, and their representatives have the right to access and examine any books, documents, papers, and records of the Counterparty that involve transactions related to the Agreement, for the purpose of audit and making excerpts and transcriptions. The Counterparty will maintain auditable records for at least four years following the close of the Cooperative Agreement (currently expected to end March 31, 2019). Further, the Counterparty will permit these representatives access to its facilities and personnel for the purpose of on-site inspections, and will provide information, as requested, to determine compliance with the Cooperative Agreement terms and conditions.
- 15. Termination of Cooperative Agreement.** If (i) funds are not appropriated or otherwise made available for the continued performance of the Cooperative Agreement, (ii) the Cooperative Agreement is terminated or (iii) the Cooperative Agreement funds are reduced or eliminated for the Project, APHL may terminate the Agreement without penalty upon written notice to the Counterparty.
- 16. Prohibition on Lobbying.** No part of the Cooperative Agreement funds may be used for:
- A.** Publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, electronic communication, radio, television, or video presentation, designed to support or defeat the enactment of legislation before the Congress or any state or local legislature or legislative body, except in presentation of the Congress or any state or local legislature itself, or designed to support or defeat any proposed or pending regulation, administrative action, or order issued by the executive branch of any state or local government itself.

- B.** Paying the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence the enactment of legislation, appropriations, regulation, administrative action, or Executive order proposed or pending before the Congress or any state government, state legislature or local legislature or legislative body, other than normal and recognized executive-legislative relationships or participation by an agency or officer of a state, local or tribal government in policymaking and administrative processes within the executive branch of that government.
- C.** Any activity to advocate or promote any proposed, pending, or future Federal, state or local tax increase, or any proposed, pending, or future requirement or restriction on any legal consumer product, including its sale or marketing, including, but not limited to the advocacy or promotion of gun control.
- D.** In addition, the Cooperative Agreement is subject to the additional lobbying restrictions and provisions of CDC's Anti-Lobbying Restrictions for CDC Grantees (an electronic copy of which is currently available at [http://www.cdc.gov/grants/documents/AntiLobbying\\_Restrictions\\_for\\_CDC\\_Grantees\\_July\\_2012.pdf](http://www.cdc.gov/grants/documents/AntiLobbying_Restrictions_for_CDC_Grantees_July_2012.pdf)).
- 17. Federal Information Security Management Act.** The Counterparty will ensure that all information systems, electronic or hard copy, that contain federal data are protected from unauthorized access and will comply with the Federal Information Security Management Act (FISMA), Title III of the EGovernment Act of 2002, as amended (Pub. L. 107-347).
- 18. Gun Control Prohibition.** None of the funds made available under the Project Agreement may be used, in whole or in part, to advocate or promote gun control.
- 19. Needle Exchange.** No funds made available under the Project Agreement may be used to carry out any program of distributing sterile needles or syringes for the hypodermic injection of any illegal drug.
- 20. Blocking Access to Pornography.** No funds made available under the Project Agreement may be used to maintain or establish a computer network unless this network blocks the viewing, downloading and exchanging of pornography. Nothing in this Section 20 will limit the use of funds necessary for any federal, state, tribal or local law enforcement agency or any other entity carrying out criminal investigations, prosecution or adjudication activities.,
- 21. Trafficking in Persons.** If the Counterparty is either a for-profit organization or a nonprofit organization, including any nonprofit institution of higher education, hospital, or most US tribal organizations then the following provisions apply.
- A.** The Counterparty, its employees, any subcontractors under the Agreement, and any subcontractor's employees may not:



- i. Engage in severe forms of trafficking in persons during the period of time that the Agreement is in effect;
- ii. Procure a commercial sex act during the period of time that the Agreement is in effect; or
- iii. Use forced labor in the performance of the Project or any work performed by approved subcontractors under the Agreement.

**22. Meetings and Conferences; Logo Use for Conferences and Other Meetings.** If the Project Agreement involves or is related to a meeting, conference or seminar, then the following provisions apply.

- A.** The Counterparty will include the following statement on conference or meeting materials, including promotional materials, agenda and internet sites:

“Funding for this conference was made possible (in part) by the U.S. Centers for Disease Control and Prevention. The views expressed in written conference materials or publications and by speakers and moderators do not necessarily reflect the official positions of the U.S. Department of Health and Human Services, nor does the mention of trade names, commercial practices or organizations imply endorsement by the U.S. Government.”

- B.** Neither the DHHS nor the CDC logo may be displayed if such display would cause confusion as to the conference source or give false impression of U.S. Government endorsement. Use of the DHHS logo is governed by U.S.C. §1320b-10, which prohibits misuse of the DHHS name and emblem in written communication. The Counterparty is prohibited from using the DHHS name or logo except as governed by U.S.C. §1320b-10. The appropriate use of the DHHS logo is subject to the review and approval of the DHHS Office of the Assistant Secretary for Public Affairs. Moreover, the Office of the Inspector General has the authority to impose civil monetary penalties for violations (see 42 CFR Part 1003). Neither the DHHS nor the CDC logo can be used on conference materials without the expressed, written consent of APHL (who, in turn, must receive such consent from the CDC). \

**23. Certifications.** By signing the Project Agreement, the Counterparty certifies the statements listed below. These certifications are material representations of facts upon which APHL relied when it entered into this transaction.

- A. Debarment, Suspension, Ineligibility and Voluntary Exclusion.** The Counterparty certifies that neither it nor its principals is presently debarred, suspended, proposed for



debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

- B.** Lobbying. The Counterparty certifies that:
- i.** No Federal appropriated funds have been paid or will be paid, by or on behalf of the Counterparty, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
  - ii.** 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 the Cooperative Agreement supporting this Agreement, the Counterparty will complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.
- C.** No Delinquency on US Government Debts. The Counterparty certifies that it is not indebted to the US government, and does not have a judgment lien filed against it.
- D.** Recent Felonies. The Counterparty certifies that it has not been convicted (nor has any of its officers or agents acting on behalf of the Counterparty been convicted) of a felony criminal violation under any Federal or State law within the preceding 24 months.
- E.** Equal Opportunity Employer. The Counterparty certifies that it is an Equal Opportunity Employer in accordance with US law and regulation in effect as of the date of this Agreement.