OFFICIAL FILE COPY
CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

Memorandum

MIAMI-DADE COUNTY

Date: October 6, 2009

To: Honorable Chairman Dennis C. Moss
and Members, Board of County Commissioners

From: George M. Burgess
County Manager

Agenda Item No. 18(A)(1)

Resolution No. R-1190-09

Subject: Resolution Authorizing Ratification of Submission of a Grant Application with the United States Environmental Protection Agency (EPA) to Provide Federal Funding from the National Clean Diesel Funding Assistance Program under the American Recovery and Reinvestment Act of 2009 (ARRA) in the Amount of $731,850

RECOMMENDATION

It is recommended that the Board of County Commissioners (Board) ratify the Mayor's, or Mayor's designee's, submission of an application for a grant on behalf of Miami-Dade County with the United States Environmental Protection Agency (EPA) for $731,850 from its National Clean Diesel Funding Assistance Program under the American Recovery and Reinvestment Act of 2009 (ARRA). It is further recommended that the Board authorize the receipt and expenditure of funds pursuant to the application, and the execution of such contracts, agreements, Memorandum of Understanding (MOU), and amendments, after approval by the County Attorney, as required by grant guidelines. Ratification of this application is necessary due to the short timeframe imposed by the ARRA grant opportunity.

SCOPE

As these funds provide support for a major bus replacement project, the impact of this grant will be countywide.

FISCAL IMPACT/FUNDING SOURCE

As per grant guidelines, funding can only pay for up to 25% of the cost for each new hybrid transit bus. The cost for each new hybrid transit bus is $625,000, and the total cost for five new buses is $3,125,000. The cost of $625,000 per vehicle represents an increase of $30,000 for each bus, up from the $595,000 shown in the application due to new 2010 emission requirements. These requirements increased the overall project cost by $150,000 from $2,975,000 to $3,125,000.

The total grant would provide $731,850 which is 23.4% of the total cost. The balance of the project costs, $2,393,150, is being provided by Miami-Dade County through the Charter County Transit System Sales Surtax (Surtax), Series 2009 Bond issuance which is already allocated and approved for the purpose of purchasing hybrid transit buses and the Series 2010 Bond Surtax issuance.

TRACK RECORD/MONITOR

The award will be received via a Cooperative Agreement between the EPA – Region 4 and Miami-Dade Transit (MDT). MDT has a prior history of involvement in successful projects including vehicle acquisition. MDT will handle the disbursement and expenditure of grant funds, and manage the programmatic and fiscal records in accordance with the project reporting and auditing procedures stipulated by the EPA and the ARRA. The staff responsible for managing this grant is Patricia Barry, Coordinator, MDT Grants Division.

DELEGATED AUTHORITY

In accordance with Section 2-8.3 of the Miami-Dade County Code related to identifying delegation of Board authority, there are no authorities beyond that specified in the attached.

/

BACKGROUND

On February 17, 2009, President Obama signed the American Recovery and Reinvestment Act of 2009 (a/k/a, Recovery Act or ARRA). The Recovery Act seeks, in part, to spur technological advances in science and health and to invest in environmental protection and other infrastructure which will provide long-term economic benefits. The EPA manages projects and programs that will help achieve these goals, offers resources to help other agencies "green" a much larger set of Recovery investments, and administer environmental laws that will govern ARRA activities.

MDT originally submitted this application for funding under the EPA – Southeast Diesel Collaborative (SEDC) FY 2008-2009 Diesel Program Grant Application on June 12, 2008. Due to limited funding, the application was not awarded. However, in June 2009, MDT was notified by the EPA – Region 4 that due to the availability of ARRA 2009 funding, the EPA was reconsidering the 2008-2009 County application. Therefore, MDT needed to quickly update and make modifications to the original application and submit to the EPA for reconsideration under the ARRA stimulus funding. Therefore, the immediate action requested by the EPA did not allow sufficient time for the processing of a resolution and its submission to the Board prior to the summer recess.

The Recovery Act funding from the EPA – Region 4 will be used for a vehicle (bus) replacement project which would further facilitate MDT's transition to hybrid technology; the first prototype of which is expected February 2010. Grant funding will be used to support the replacement/scrapping of fourteen (14) 30-foot North American Bus Industries (NABI) 30 LFN Optare diesel transit buses, with five (5) 40-foot GILLIG diesel-electric hybrid transit buses. These buses will meet the EPA 2010 Heavy-Duty Emissions Standards for Urban Bus Engines and have exhaust gas recirculation (EGR) technology diesel particulate filters, and urea exhaust after treatment. The project is also expected to create and/or preserve approximately 44 direct or indirect jobs, per the Manufacturers of Emission Controls Association EPA/ARRA formula (Attachment B).

Assistant County Manager

MEMORANDUM
(Revised)

TO: Honorable Chairman Dennis C. Moss and Members, Board of County Commissioners

DATE: October 6, 2009

FROM: R. A. Cuevas, Jr. County Attorney

SUBJECT: Agenda Item No. 18(A)(1)

Please note any items checked.

_____ **"3-Day Rule" for committees applicable if raised**

_____ **6 weeks required between first reading and public hearing**

_____ **4 weeks notification to municipal officials required prior to public hearing**

_____ **Decreases revenues or increases expenditures without balancing budget**

_____ **Budget required**

_____ **Statement of fiscal impact required**

_____ **Ordinance creating a new board requires detailed County Manager's report for public hearing**

✓ **No committee review**

_____ **Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous _____) to approve**

_____ **Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required**

Approved _____ Mayor

Veto _____

Override _____

Agenda Item No. 18(A)(1)

10-6-09

RESOLUTION NO. **R-1190-09**

RESOLUTION RATIFYING THE MAYOR OR MAYOR'S DESIGNEE'S ACTION OF SUBMISSION OF AN APPLICATION FOR AND ACCEPTANCE OF FUNDS IN THE AMOUNT OF $731,850 FROM THE ENVIRONMENTAL PROTECTION AGENCY'S RECOVERY ACT 2009 NATIONAL CLEAN DIESEL FUNDING ASSISTANCE PROGRAM; AUTHORIZING THE COUNTY MAYOR, MAYOR'S DESIGNEE, OR MIAMI-DADE TRANSIT DIRECTOR, TO RECEIVE, EXPEND, AND EXECUTE SUCH CONTRACTS, AGREEMENTS, MEMORANDA OF UNDERSTANDING, AND AMENDMENTS AFTER APPROVAL BY THE COUNTY ATTORNEY'S OFFICE AS REQUIRED; AUTHORIZING THE MAYOR, MAYOR'S DESIGNEE, OR MIAMI-DADE TRANSIT DIRECTOR TO APPLY FOR, RECEIVE AND EXPEND ADDITIONAL FUNDS THAT MAY BECOME AVAILABLE UNDER THE PROGRAM

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference; and

WHEREAS, this Board has adopted Resolution No. R-900-09, authorizing the County Mayor or his designee to administer County business during the Board of County Commissioners' 2009 summer recess as provided therein, and has directed that all actions taken pursuant to such authority be submitted to this Board for ratification at its October 6, 2009 meeting; and

WHEREAS, it is required by the United States Department of Transportation (USDOT) in accordance with the provisions of Title VI of the Civil Rights Act of 1964, that the applicant give an assurance that it will comply with Title VI of the Civil Rights Act of 1964, and the USDOT requirements thereunder,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that:

Section 1. This Board ratifies the County Mayor, Mayor's designee, or the Miami-Dade Transit (MDT) Director's submission of a grant application and acceptance of funds from the United States Environmental Protection Agency (EPA) National Clean Diesel Assistance

Funding Program under the American Recovery and Reinvestment Act of 2009 for the purchase of diesel-electric hybrid transit buses.

Section 2. The County staff is authorized to furnish such additional information as the EPA and the Florida Department of Transportation (FDOT) may require in connection with the grant application for the project.

Section 3. That the County Mayor, or his designee, is authorized to set forth and execute disadvantaged business enterprise policies in connection with the projects should such funds become available.

Section 4. This Board further authorizes the County Mayor, Mayor's designee, or the MDT Director to execute such contracts and agreements as are approved by the County Attorney's Office, to receive and expend funds in accordance with such aforementioned contracts and agreements; and to file and execute any additional contracts, amendments, agreements, or memoranda of understanding, after approval by the County Attorney, as required to carry out the projects for and on behalf of Miami-Dade County, Florida.

The foregoing resolution was offered by Commissioner **Jose "Pepe" Diaz**, who moved its adoption. The motion was seconded by Commissioner **Sally A. Heyman** and upon being put to a vote, the vote was as follows:

Dennis C. Moss, Chairman **aye**
Jose "Pepe" Diaz, Vice-Chairman **aye**

Bruno A. Barreiro	**aye**	Audrey M. Edmonson	**aye**
Carlos A. Gimenez	**aye**	Sally A. Heyman	**aye**
Barbara J. Jordan	**aye**	Joe A. Martinez	**aye**
Dorrin D. Rolle	**aye**	Natacha Seijas	**absent**
Katy Sorenson	**aye**	Rebeca Sosa	**aye**
Sen. Javier D. Souto	**aye**		

The Chairperson thereupon declared the resolution duly passed and adopted this 6th day of October, 2009. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: **DIANE COLLINS**
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Bruce Libhaber

ATTACHMENT A

RECEIVED
A 8:24
COUNTY MANAGER'S OFFICE

U. S. ENVIRONMENTAL PROTECTION AGENCY
NOTICE OF AWARD

RECIPIENT NAME AND ADDRESS:

George Burgess, County Manager
Miami-Dade County
111 NW First Street, 29th Floor
Miami, FL 33128

2A-95422509-0

[X] **Assistance Agreement**

[ ] **Assistance Amendment**

[ ] **Increase** [ ] **Decrease**

[ ] **Time Extension** [ ] **Administrative**

Enclosed are two copies of an Assistance Agreement from the U.S. Environmental Protection Agency.

To accept this Notice of Award, please carefully review any terms and conditions, sign[1], and return one original copy to the following address within 21 days[2] of the mailing date on the Assistance Agreement:

U.S. ENVIRONMENTAL PROTECTION AGENCY
REGION 4
GRANTS MANAGEMENT OFFICE
61 FORSYTH STREET, SW
ATLANTA, GA 30303

ATTN: Shevella Wilson

The other original should be retained for your official records and copies distributed within your organization as needed. Please note, funds will not be available for draw until we receive your countersigned affirmation of the award.

To assist you with your post award management responsibilities, please see *"Reporting Forms and Guidance for Administration of Your Assistance Agreement[3]."* This document contains important post-award reporting requirements and instructions on how to receive payments. To view this and other EPA grant-related information, visit our Region 4 Grants Office website at:

www.epa.gov/region4/grants/

Please reference the EPA Assistance Number on all future correspondence regarding this Assistance Agreement. If you have any questions, you may contact the Grants Specialist identified above at

(404)562-8414 or Wilson.shevella@epa.gov

[1] Must be signed by authorized representative as shown on the Affirmation of Award signature block or formally authorized delegate.
[2] Failure to countersign and return within 21 days of the mailing date may result in withdrawal of this award.
[3] Please contact your Grant Specialist if you need a paper copy of this document.

U.S. Environmental Protection Agency
Region 4
Grants Management Office

U.S. ENVIRONMENTAL PROTECTION AGENCY

Cooperative Agreement

ASSISTANCE ID NO.			DATE OF AWARD
PRG	DOC ID	AMEND#	07/02/2009
2A -	95422509	- 0	
TYPE OF ACTION: New			MAILING DATE: 07/06/2009
PAYMENT METHOD: ASAP			ACH#: 40161

RECIPIENT TYPE:
County

Send Payment Request to:
Las Vegas Finance Center

RECIPIENT:
Miami - Dade County
111 NW First Street, 29th Floor
Miami, FL 33128
EIN: 59-6000573

PAYEE:
Miami - Dade County
111 NW First Street, 29th Floor
Miami, FL 33128

PROJECT MANAGER	EPA PROJECT OFFICER	EPA GRANT SPECIALIST
Carlos Delgado 3300 NW 32 Avenue Miami, FL 33142 **E-Mail:** cdelgado@miamidade.gov **Phone:** 305-637-3709	Gracy Danois 61 Forsyth Street Atlanta, GA 30303-8960 **E-Mail:** Danois.Gracy@epa.gov **Phone:** 404-562-9119	Shevella Wilson Grants Management Office **E-Mail:** wilson.shevella@epa.gov **Phone:** 404-562-8414

PROJECT TITLE AND DESCRIPTION
National Clean Diesel Funding Assistance Program (B)

This assistance agreement provides funding to Miami-Dade County under the American Recovery & Reinvestment Act of 2009. This project will provide funding for the transit department's acquisition of five new hybrid diesel transit buses and the scrapping of 14 transit buses. The new buses will have Allison EP40 electric drives and exhaust gas recirculation technology and provide emissions reductions from improvements in fuel efficiency and on-board emission controls for approximately 15 years. It is expected that the project will create and/or preserve 44.3 jobs.

BUDGET PERIOD	PROJECT PERIOD	TOTAL BUDGET PERIOD COST	TOTAL PROJECT PERIOD COST
06/01/2009 - 09/30/2010	06/01/2009 - 09/30/2010	$2,975,000.00	$2,975,000.00

NOTICE OF AWARD

Based on your application dated 06/12/2008, including all modifications and amendments, the United States acting by and through the US Environmental Protection Agency (EPA), hereby awards $731,850. EPA agrees to cost-share 24.60% of all approved budget period costs incurred, up to and not exceeding total federal funding of $731,850. Such award may be terminated by EPA without further cause if the recipient fails to provide timely affirmation of the award by signing under the Affirmation of Award section and returning all pages of this agreement to the Grants Management Office listed below within 21 days after receipt, or any extension of time, as may be granted by EPA. This agreement is subject to applicable EPA statutory provisions. The applicable regulatory provisions are 40 CFR Chapter 1, Subchapter B, and all terms and conditions of this agreement and any attachments.

ISSUING OFFICE (GRANTS MANAGEMENT OFFICE)	AWARD APPROVAL OFFICE
ORGANIZATION / ADDRESS	ORGANIZATION / ADDRESS
61 Forsyth Street Atlanta, GA 30303-8960	U.S. EPA, Region 4 Air, Pesticides and Toxics Management Division 61 Forsyth St, SW Atlanta, GA 30303

THE UNITED STATES OF AMERICA BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY

SIGNATURE OF AWARD OFFICIAL	TYPED NAME AND TITLE	DATE
Digital signature applied by EPA Award Official	Elaine Curles, Grants Management Officer	07/02/2009

AFFIRMATION OF AWARD

BY AND ON BEHALF OF THE DESIGNATED RECIPIENT ORGANIZATION

SIGNATURE	TYPED NAME AND TITLE	DATE
	George M. Burgess, County Manager	

Bruce Libhaber
Approved as to form and legal sufficiency

EPA Funding Information

FUNDS	FORMER AWARD	THIS ACTION	AMENDED TOTAL
EPA Amount This Action	$	$ 731,850	$ 731,850
EPA In-Kind Amount	$	$	$ 0
Unexpended Prior Year Balance	$	$	$ 0
Other Federal Funds	$	$	$ 0
Recipient Contribution	$	$ 2,243,150	$ 2,243,150
State Contribution	$	$	$ 0
Local Contribution	$	$	$ 0
Other Contribution	$	$	$ 0
Allowable Project Cost	$ 0	$ 2,975,000	$ 2,975,000

Assistance Program (CFDA)	Statutory Authority	Regulatory Authority
66.039 - National Clean Diesel Funding Assistance Program (B)	American Recovery and Reinvestment Act of 2009 Energy Policy Act 2005 Public Law 109-58	40 CFR PART 31

Fiscal

Site Name	Req No	FY	Approp. Code	Budget Organization	PRC	Object Class	Site/Project	Cost Organization	Obligation / Deobligation
-	0904VWS022	0910	E4S	04V2	101AH4EDN	4112	-	-	731,850
									731,850

Budget Summary Page: Miami-Dade County SEDC

Table A - Object Class Category (Non-construction)	Total Approved Allowable Budget Period Cost
1. Personnel	$0
2. Fringe Benefits	$0
3. Travel	$0
4. Equipment	$2,975,000
5. Supplies	$0
6. Contractual	$0
7. Construction	$0
8. Other	$0
9. Total Direct Charges	$2,975,000
10. Indirect Costs: 0.00% Base	$0
11. Total (Share: Recipient 75.40 % Federal 24.60 %.)	$2,975,000
12. Total Approved Assistance Amount	$731,850
13. Program Income	$0
14. Total EPA Amount Awarded This Action	$731,850
15. Total EPA Amount Awarded To Date	$731,850

Administrative Conditions

1. ADVANCE METHOD OF PAYMENT

In accordance with EPA regulations, the recipient is authorized to receive advance payments under this agreement, provided that the recipient takes action to minimize the time elapsing between the transfer of funds from EPA and the disbursement of those funds.

2. DRUG-FREE WORKPLACE CERTIFICATION FOR ALL EPA RECIPIENTS

The recipient organization of this EPA assistance agreement 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. Additionally, in accordance with these regulations, the recipient organization must identify all known workplaces under its federal awards, and keep this information on file during the performance of the award.

Those recipients who are individuals must comply with the drug -free provisions set forth in Title 40 CFR 36.300.

The consequences for violating this condition are detailed under Title 40 CFR 36.510. Recipients can access the Code of Federal Regulations (CFR) Title 40 Part 36 at http://www.access.gpo.gov/nara/cfr/waisidx_06/40cfr36_06.html.

3. FINANCIAL REQUIREMENTS

Under the Automated Standard Application for Payments (ASAP), the recipient initiates an electronic or voice-activated telephone payment request which is approved or rejected based on the amount of available funds authorized by EPA in the recipient's account. Approved funds are credited to the recipient organization at the financial institution identified on the recipient's ASAP enrollment application .

The recipient agrees to the following conditions in accepting this assistance agreement :

(a) Cash draw down will be made only as actually needed for its disbursement;

(b) The recipient will provide timely reporting of cash disbursements and balances as required;

(c) The recipient will impose the same standards of timing and reporting on secondary recipients, if any.

Failure on the part of the recipient to comply with the above conditions may cause the undisbursed portions of the assistance agreement to be revoked and financing method changed to a reimbursable basis.

4. FINANCIAL STATUS REPORTS /GRANT CLOSEOUT

A) Interim Financial Status Reports (FSR)

An Interim Financial Status Report (FSR-SF269) is to be submitted to the appropriate EPA Grants Management Office 90 days after the anniversary of the project period start date. Interim FSRs should be submitted to: EPA Grants Management Office, 61 Forsyth Street SW, Atlanta, GA 30303

B) Final Financial Status Reports

Pursuant to 40 CFR 31.41(b) and 31.50(b), EPA recipients shall submit a final Financial Status Report - also called the SF269 - to EPA's Las Vegas Finance Center (LVFC), within ninety (90) days after the expiration of the budget period end date. Assistance agreement recipients must also send Federal Cash Transaction Reports (SF-272) annually to the LVFC; the SF-272 is due 15 working days after December 31. Please note that these reports are required by EPA grant regulations (see 40 Code of Federal Regulations §31.41(c)). Completed SF269s and SF272s must be faxed to 702-798-2423 or mailed to the following address: USEPA LVFC, P.O. Box 98515, Las Vegas, NV 89193-8515. The LVFC will make adjustments, as necessary, to obligated funds after reviewing and accepting a final Financial Status Report.

C) Closeout

The Administrative Closeout Phase for this grant will be initiated with the submission of a "final" FSR. At that time, the recipient must submit the following forms/reports to the EPA Grants Management Office if applicable:

- Federally Owned Property Report
- An Inventory of all Property Acquired with federal funds
- Contractor's or Grantee's Invention Disclosure Report (EPA Form 3340-3)

Additionally, the recipient's Final Request for Payment should be submitted to the LVFC.

5. HOTEL-MOTEL FIRE SAFETY

Pursuant to 40 CFR 30.18, if applicable, and 15 USC 2225a, the recipient agrees to ensure 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 (PL 101-391, as amended). 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 (FEMA ID is currently not required), or to find other information about the Act.

6. LOBBYING AND LITIGATION - ALL RECIPIENTS

The chief executive officer of this recipient agency shall ensure that no grant funds awarded under this assistance agreement are used to engage in lobbying of the Federal Government or in litigation against the United States unless authorized under existing law. The recipient shall abide by its respective OMB Circular (A-21, A-87, or A-122), which prohibits the use of federal grant funds for litigation against the United States or for lobbying or other political activities.

RESTRICTIONS ON LOBBYING

The recipient agrees to comply with Title 40 CFR Part 34, *New Restrictions on Lobbying*. The recipient shall include the language of this provision in award documents for all subawards exceeding $100,000, and require that subrecipients submit certification and disclosure forms accordingly.

In accordance with the Byrd Anti-Lobbying Amendment, any recipient who makes a prohibited expenditure under Title 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.

7. MANAGEMENT FEES

Management fees or similar charges in excess of the direct costs and approved indirect rates are not allowable. 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 this agreement, except to the

extent authorized as a direct cost of carrying out the scope of work.

8. EXTENSION OF PROJECT /BUDGET PERIOD EXPIRATION DATE (PART 31)

If a no cost time extension is necessary to extend the period of availability of funds (budget 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 EPA, Grants Management Office prior to the budget/project period expiration dates. An interim FSR must be submitted along with the request which covers all expenditures and obligations to date.

9. RECYCLING AND WASTE PREVENTION

In accordance with the polices set forth in EPA Order 1000.25 and Executive Order 13423, Strengthening Federal Environmental, Energy and Transportation Management (January 24, 2007) and or 40 CFR 30.16, the recipient agrees to use recycled paper and double sided printing for all reports which are prepared as a part of this agreement and delivered to EPA. This requirement does not apply to reports prepared on forms supplied by EPA, or to Standard Forms, which are printed on recycled paper and are available through the General Services Administration.

STATE AGENCIES AND POLITICAL SUBDIVISIONS

In accordance with Section 6002 of the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. 6962) any State agency or agency of a political subdivision of a State which is using appropriated Federal funds shall comply with the requirements set forth. Regulations issued under RCRA Section 6002 apply to any acquisition of an item where the purchase price exceeds $10,000 or where the quantity of such items acquired in the course of the preceding fiscal year was $10,000 or more. RCRA Section 6002 requires that preference be given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by EPA. These guidelines are listed in 40 CFR 247.

10. REIMBURSEMENT LIMITATION

EPA's financial obligations to the recipient are limited by the amount of federal funding awarded to date as shown on line 15 in its approved EPA budget. If the recipient incurs costs in anticipation of receiving additional funds from EPA, it does so at is own risk. **The recipient is responsible for ensuring that projects funded under this agreement avoid unnecessary delays and are completed within the EPA approved budget.**

11. SINGLE AUDITS

In accordance with OMB Circular A-133, which implements the single Audit Act, the recipient hereby agrees to obtain a single audit from an independent auditor if it expends $500,000 or more in total Federal funds in any fiscal year. Within nine months after the end of a recipient's fiscal year or 30 days after receiving the report from the auditor, the recipient shall submit a copy of the SF-SAC and a Single Audit Report Package. **For fiscal periods 2002 to 2007 recipients are to submit hard copy to the following address:**

Federal Audit Clearinghouse
1201 East 10th Street
Jeffersonville, IN 47132

For fiscal periods 2008 and beyond the recipient MUST submit a copy of the SF-SAC and a Single Audit Report Package, using the Federal Audit Clearinghouse's Internet Data Entry System. Complete information on how to accomplish the 2008 and beyond Single Audit Submissions is available on the Federal Audit Clearinghouse Web site: http://harvester.census.gov/fac/

12. SUBAWARD POLICY

a. The recipient agrees to:

(1) Establish all subaward agreements in writing;
(2) Maintain primary responsibility for ensuring successful completion of the EPA -approved project (this responsibility cannot be delegated or transferred to a subrecipient);
(3) Ensure that any subawards comply with the standards in Section 210(a)-(d) of OMB Circular A-133 and are not used to acquire commercial goods or services for the recipient;
(4) Ensure that any subawards are awarded to eligible subrecipients and that proposed subaward costs are necessary, reasonable, and allocable;
(5) Ensure that any subawards to 501(c)(4) organizations do not involve lobbying activities;
(6) Monitor the performance of their recipients and ensure that they comply with all applicable regulations, statutes, and terms and conditions which flow down in the subaward;
(7) Obtain EPA's consent before making a subaward to a foreign or international organization, or a subaward to be performed in a foreign country; and
(8) Obtain approval from EPA for any new subaward work that is not outlined in the approved work plan in accordance with 40 CFR Parts 30.25 and 31.30, as applicable.

b. Any questions about subrecipient eligibility or other issues pertaining to subawards should be addressed to the recipient's EPA Project Officer. Additional information regarding subawards may be found at http://www.epa.gov/ogd/guide/subaward-policy-part-2.pdf. Guidance for distinguishing between vendor and subrecipient relationships and ensuring compliance with Section 210(a)-(d) of OMB Circular A-133 can be found at http://www.epa.gov/ogd/guide/subawards-appendix-b.pdf and http://www.whitehouse.gov/omb/circulars/a133/a133.html.

c. The recipient is responsible for selecting its subrecipients and , if applicable, for conducting subaward competitions.

13. SUSPENSION AND DEBARMENT

Recipient shall fully comply with Subpart C of 2 CFR Part 180 and 2 CFR Part 1532, entitled "Responsibilities of Participants Regarding Transactions (Doing Business with Other Persons)." 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, entitled "Covered Transactions," includes a term or condition requiring compliance with Subpart C. 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 as required at 2 CFR 180.335 may result in the delay or negation of this assistance agreement, or pursuance of legal remedies, including suspension and debarment.

Recipient may access the Excluded Parties List System at www.epls.gov. This term and condition supersedes EPA Form 5700-49, "Certification Regarding Debarment, Suspension, and Other Responsibility Matters."

14. 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. We, as the Federal awarding agency may unilaterally terminate this award, without penalty, if a subrecipient that is a private entity: (1) is determined to have violated an applicable prohibition in the Prohibition Statement below; or (2) has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in the Prohibition Statement below through conduct that is either: (a) associated with performance under this award; or (b) 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 Governmentwide

Debarment and Suspension (Nonprocurement)," as implemented by our agency at 2 CFR part 1532. You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in the Prohibition Statement below.

b. Our right to terminate unilaterally that is described in paragraph a of this award term: (1) implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), and (2) is in addition to all other remedies for noncompliance that are available to us under this award.

c. You must include the requirements of the Prohibition Statement below in any subaward you make to a private entity.

Prohibition Statement - You as the recipient, your employees, subrecipients under this award, and subrecipients' employees may not engage in severe forms of trafficking in persons during the period of time that the award is in effect; procure a commercial sex act during the period of time that the award is in effect; or use forced labor in the performance of the award or subawards under the award.

15. CERTIFICATIONS

Prior to obligating funds for a particular project, recipient must (a) provide a certification from the Governor or Chief Environmental Executive, as appropriate, stating that (1) the infrastructure investment has received the full review and vetting required by law, and (2) the Governor or Chief Environmental Executive accepts responsibility that the infrastructure investment is an appropriate use of taxpayer dollars; and (b) ensure that the certification is posted on a website and linked to www.recovery.gov. The certification shall include a description of the investment, the estimated total cost, and the amount of awarded funds to be used. For the purposes of this term and condition, "obligating funds" means entering into a contract requiring payment for specified goods or services or entering into a loan, reserving funds for a loan guarantee or bond issuance, or making a subaward (subgrant) of financial assistance.

16. SECTION 1512 REPORTING AND REGISTRATION REQUIREMENTS

Reporting and Registration Requirements under Section 1512 of the American Recovery and Reinvestment Act of 2009,
Public Law 111-5

(a) This award requires the recipient to complete projects or activities which are funded under the American Recovery and Reinvestment Act of 2009 ("Recovery Act") and to report on use of Recovery Act funds provided through this award. Information from these reports will be made available to the public.
(b) The initial report is due by October 10, 2009. Thereafter, the reports are due no later than ten calendar days after each calendar quarter in which the recipient receives the assistance award funded in whole or in part by the Recovery Act.
(c) Recipients and their first-tier recipients must maintain current registrations in the Central Contractor Registration (www.ccr.gov) at all times during which they have active federal awards funded with Recovery Act funds. A Dun and Bradstreet Data Universal Numbering System (DUNS) Number (www.dnb.com) is one of the requirements for registration in the Central Contractor Registration.
(d) The recipient shall report the information described in section 1512(c) using the reporting instructions and data elements that will be provided online at www.FederalReporting.gov and ensure that any information that is pre-filled is corrected or updated as needed.

17. INSPECTOR GENERAL REVIEWS

In addition to the access to records provisions of 2 CFR 215.53 or 40 CFR 31.42, and in accordance with the provisions of section 1515 of the American Recovery and Reinvestment Act of 2009 (ARRA), recipient agrees to allow any appropriate representative of the Office of Inspector General to (1) examine any records of the recipient, any 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.

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

Recipient should be aware that the findings of any review, along with any audits, conducted by an inspector general of a Federal department or executive Agency and concerning funds awarded under ARRA shall be posted on the inspector general's website and linked to www.recovery.gov, except that information that is protected from disclosure under sections 552 and 552a of title 5, United States Code may be redacted from the posted version.

18. PROTECTION OF WHISTLEBLOWERS

In accordance with section 1553 of the American Recovery and Reinvestment Act of 2009 (Act), recipient agrees that employees of non-Federal employer receiving covered funds may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing, including a disclosure made in the ordinary course of an employee's duties, to the Recovery Accountability and Transparency Board, an inspector general, the Comptroller General, a member of Congress, a State or Federal regulatory or law enforcement Agency, a person with supervisory authority over the employee, a court or grand jury, the head of a Federal agency, or their representatives, information that the employee reasonably believes is evidence of (1) gross mismanagement of an agency contract or grant relating to grant funds; (2) a gross waste of covered funds; (3) a substantial and specific danger to public health or safety related to implementation or use of grant funds; (4) an abuse of authority related to implementation or use of covered funds; or (5) a violation of law, rule, or regulation related to a grant awarded or issued relating to covered funds.

19. FALSE CLAIM

The grantee, and its sub-grantees must promptly refer to EPA's Inspector General any credible evidence that a principal, employee, agent, sub-grantee contractor, subcontractor, loan recipient, or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving funds provided under this grant or sub-grants awarded by the grantee.

20. PREFERENCE FOR QUICK -START ACTIVITIES (

Recipient shall use funds in a manner that maximizes job creation and economic benefit. And, recipients using funds for infrastructure investment must give preference to funding activities that can be started and completed expeditiously, including a goal of using at least 50 percent of the funds for activities that can be initiated not later than June 17, 2009.

21. LIMIT ON FUNDS

Recipient shall not use funds for particular activities for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool.

22. BUY AMERICAN

Section 1605 Buy American Requirement - iron, steel, and/or manufactured goods not covered under international agreements

REQUIRED USE OF AMERICAN IRON, STEEL, AND MANUFACTURED GOODS–SECTION 1605 OF THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009

(a) **Definitions**. As used in this award term and condition–

"Manufactured good" means a good brought to the construction site for incorporation into the building or work that has been--

(1) Processed into a specific form and shape; or

(2) Combined with other raw material to create a material that has different properties than the properties of the individual raw materials.

"Public building" and "public work" means a public building of, and a public work of, a governmental entity (the United States; the District of Columbia; commonwealths, territories, and minor outlying islands of the United States; State and local governments; and multi-State, regional, or interstate entities which have governmental functions). These buildings and works may include, without limitation, bridges, dams, plants, highways, parkways, streets, subways, tunnels, sewers, mains, power lines, pumping stations, heavy generators, railways, airports, terminals, docks, piers, wharves, ways, lighthouses, buoys, jetties, breakwaters, levees, and canals, and the construction, alteration, maintenance, or repair of such buildings and works.

"Steel" means an alloy that includes at least 50 percent iron, between .02 and 2 percent carbon, and may include other elements.

(b) *Domestic preference.*

(1) This award term and condition implements Section 1605 of the American Recovery and Reinvestment Act of 2009 (Recovery Act)(Pub. L. 111-5), by requiring that all iron, steel, and manufactured goods used in the project are produced in the United States except as provided in paragraph (b)(3) and (b)(4) of this term and condition.

(2) This requirement does not apply to the material listed by the Federal Government. All "Buy American Waivers" are published in the Federal Register and published at http://www.epa.gov/recovery/.

(3) The award official may add other iron, steel, and/or manufactured goods to the list in paragraph (b)(2) of this term and condition if the Federal government determines that–

(i) The cost of the domestic iron, steel, and/or manufactured goods would be unreasonable. The cost of domestic iron, steel, or manufactured goods used in the project is unreasonable when the cumulative cost of such material will increase the cost of the overall project by more than 25 percent;

(ii) The iron, steel, and/or manufactured good is not produced, or manufactured in the United States in sufficient and reasonably available quantities and of a satisfactory quality ; or

(iii) The application of the restriction of section 1605 of the Recovery Act would be inconsistent with the public interest.

(c) *Request for determination of inapplicability of Section 1605 of the Recovery Act.*

(1)(i) Any recipient request to use foreign iron, steel, and/or manufactured goods in accordance with paragraph (b)(3) of this term and condition shall include adequate information for Federal Government evaluation of the request, including–

(A) A description of the foreign and domestic iron, steel, and/or manufactured goods;

(B) Unit of measure;

(C) Quantity;

(D) Cost;

(E) Time of delivery or availability;

(F) Location of the project;

(G) Name and address of the proposed supplier; and

(H) A detailed justification of the reason for use of foreign iron, steel, and/or manufactured goods cited in accordance with paragraph (b)(3) of this term and condition.

(ii) A request based on unreasonable cost shall include a reasonable survey of the market and a completed cost comparison table in the format in paragraph (d) of this term and condition.

(iii) The cost of iron, steel, and/or manufactured goods material shall include all delivery costs to the construction site and any applicable duty.

(iv) Any recipient request for a determination submitted after Recovery Act funds have been obligated for a project for construction, alteration, maintenance, or repair shall explain why the recipient could not reasonably foresee the need for such determination and could not have requested the determination before the funds were obligated. If the recipient does not submit a satisfactory explanation, the award official need not make a determination.

(2) If the Federal government determines after funds have been obligated for a project for construction, alteration, maintenance, or repair that an exception to section 1605 of the Recovery Act applies, the award official will amend the award to allow use of the foreign iron, steel, and/or relevant manufactured goods. When the basis for the exception is nonavailability or public interest, the amended award shall reflect adjustment of the award amount, redistribution of budgeted funds, and/or other actions taken to cover costs associated with acquiring or using the foreign iron, steel, and/or relevant

manufactured goods. When the basis for the exception is the unreasonable cost of the domestic iron, steel, or manufactured goods, the award official shall adjust the award amount or redistribute budgeted funds by at least the differential established in 2 CFR 176.110(a).

(3) Unless the Federal Government determines that an exception to section 1605 of the Recovery Act applies, use of foreign iron, steel, and/or manufactured goods is noncompliant with section 1605 of the American Recovery and Reinvestment Act.

(d) **Data**. To permit evaluation of requests under paragraph (b) of this term and condition based on unreasonable cost, the Recipient shall include the following information and any applicable supporting data based on the survey of suppliers:

FOREIGN AND DOMESTIC ITEMS COST COMPARISON			
Description	Unit of Measure	Quantity	Co
Item 1:			
Foreign steel, iron, or manufactured good	_____	_____	
Domestic steel, iron, or manufactured good	_____	_____	
Item 2:	_____	_____	
Foreign steel, iron, or manufactured good	_____	_____	
Domestic steel, iron, or manufactured good			
[List name, address, telephone number, email address, and contact for suppliers surveyed . Attach co [Include other applicable supporting information .] [* Include all delivery costs to the construction site .]			

Section 1605 Buy American Requirement - iron , steel, and/or manufactured goods covered under international agreements

Required Use of American Iron , Steel, and Manufactured Goods (covered under International Agreements)—Section 1605 of the American Recovery and Reinvestment Act of 2009.

(a) **Definitions**. As used in this award term and condition—

"Designated country" –

(1) A World Trade Organization Government Procurement Agreement country (Aruba, Austria, Belgium, Bulgaria, Canada, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea (Republic of), Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, and United Kingdom;

(2) A Free Trade Agreement (FTA) country (Australia, Bahrain, Canada, Chile, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Israel, Mexico, Morocco, Nicaragua, Oman, Peru, or Singapore); or

(3) A United States-European Communities Exchange of Letters (May 15, 1995) country:

Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovak Republic, Slovenia, Spain, Sweden, and United Kingdom.

"Designated country iron, steel, and/or manufactured goods" --

(1) Is wholly the growth, product, or manufacture of a designated country; or

(2) In the case of a manufactured good that consist in whole or in part of materials from another country, has been substantially transformed in a designated country into a new and different manufactured good distinct from the materials from which it was transformed.

"Domestic iron, steel, and/or manufactured good" --

(1) Is wholly the growth, product, or manufacture of the United States; or

(2) In the case of a manufactured good that consists in whole or in part of materials from another

country, has been substantially transformed in the United States into a new and different manufactured good distinct from the materials from which it was transformed. There is no requirement with regard to the origin of components or subcomponents in manufactured goods or products, as long as the manufacture of the goods occurs in the United States.

"Foreign iron, steel, and/or manufactured good" means iron, steel and/or manufactured good that is not domestic or designated country iron, steel, and/or manufactured good.

"Manufactured good" means a good brought to the construction site for incorporation into the building or work that has been--

(1) Processed into a specific form and shape; or

(2) Combined with other raw material to create a material that has different properties than the properties of the individual raw materials.

"Public building" and "public work" means a public building of, and a public work of, a governmental entity (the United States; the District of Columbia; commonwealths, territories, and minor outlying islands of the United States; State and local governments; and multi-State, regional, or interstate entities which have governmental functions). These buildings and works may include, without limitation, bridges, dams, plants, highways, parkways, streets, subways, tunnels, sewers, mains, power lines, pumping stations, heavy generators, railways, airports, terminals, docks, piers, wharves, ways, lighthouses, buoys, jetties, breakwaters, levees, and canals, and the construction, alteration, maintenance, or repair of such buildings and works.

"Steel" means an alloy that includes at least 50 percent iron, between .02 and 2 percent carbon, and may include other elements.

(b) *Iron, steel, and manufactured goods.*

(1) This award term and condition implements

(i) Section 1605(a) of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111-5) (Recovery Act), by requiring that all iron, steel, and manufactured goods used in the project are produced in the United States; and

(ii) Section 1605(d), which requires application of the Buy American requirement in a manner consistent with U.S. obligations under international agreements. The restrictions of section 1605 of the Recovery Act do not apply to designated country iron, steel, and/or manufactured goods. The Buy American requirement in section 1605 shall not be applied where the iron, steel or manufactured goods used in the project are from a Party to an international agreement that obligates the recipient to treat the goods and services of that Party the same as domestic goods and services. This obligation shall only apply to projects with an estimated value of $7,443,000 or more.

(2) The recipient shall use only domestic or designated country iron, steel, and manufactured goods in performing the work funded in whole or part with this award, except as provided in paragraphs (b)(3) and (b)(4) of this term and condition.

(3) The requirement in paragraph (b)(2) of this term and condition does not apply to the iron, steel, and manufactured goods listed by the Federal Government. All "Buy American Waivers" are published in the Federal Register and published at http://www.epa.gov/recovery/.

(4) The award official may add other iron, steel, and manufactured goods to the list in paragraph (b)(3) of this award term and condition if the Federal government determines that–

(i) The cost of domestic iron, steel, and/or manufactured goods would be unreasonable. The cost of domestic iron, steel, and/or manufactured goods used in the project is unreasonable when the cumulative cost of such material will increase the overall cost of the project by more than 25 percent;

(ii) The iron, steel, and/or manufactured goods is not produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality ; or

(iii) The application of the restriction of section 1605 of the Recovery Act would be inconsistent with the public interest.

(c) *Request for determination of inapplicability of section 1605 of the Recovery Act or the Buy American Act.*

(1)(i) Any recipient request to use foreign iron, steel, and/or manufactured goods in accordance with paragraph(b)(4) of this term and condition shall include adequate information for Federal Government evaluation of the request, including–

(A) A description of the foreign and domestic iron, steel, and/or manufactured goods;

(B) Unit of measure;

(C) Quantity;

(D) Cost;
(E) Time of delivery or availability;
(F) Location of the project;
(G) Name and address of the proposed supplier; and
(H) A detailed justification of the reason for use of foreign iron, steel, and/or manufactured goods cited in accordance with paragraph (b)(4) of this term and condition.

(ii) A request based on unreasonable cost shall include a reasonable survey of the market and a completed cost comparison table in the format in paragraph (d) of this term and condition.

(iii) The cost of iron, steel, or manufactured goods shall include all delivery costs to the construction site and any applicable duty.

(iv) Any recipient request for a determination submitted after Recovery Act funds have been obligated for a project for construction, alteration, maintenance, or repair shall explain why the recipient could not reasonably foresee the need for such determination and could not have requested the determination before the funds were obligated. If the recipient does not submit a satisfactory explanation, the award official need not make a determination.

(2) If the Federal government determines after funds have been obligated for a project for construction, alteration, maintenance, or repair that an exception to section 1605 of the Recovery Act applies, the award official will amend the award to allow use of the foreign iron, steel, and/or relevant manufactured goods. When the basis for the exception is nonavailability or public interest, the amended award shall reflect adjustment of the award amount, redistribution of budgeted funds, and/or other appropriate actions taken to cover costs associated with acquiring or using the foreign iron, steel, and/or relevant manufactured goods.. When the basis for the exception is the unreasonable cost of the domestic iron, steel, or manufactured goods, the award official shall adjust the award amount or redistribute budgeted funds, as appropriate, by at least the differential established in 2 CFR 176.110(a).

FOREIGN AND DOMESTIC ITEMS COST COMPARISON			
Description	Unit of Measure	Quantity	Cost (Dollars)*
Item 1:			
Foreign steel, iron, or manufactured good	_____	_____	_____
Domestic steel, iron, or manufactured good	_____	_____	_____
Item 2:	_____	_____	_____
Foreign steel, iron, or manufactured good	_____	_____	_____
Domestic steel, iron, or manufactured good			

[List name, address, telephone number, email address, and contact for suppliers surveyed . Attach copy of response; if oral, attach summary.]
[Include other applicable supporting information .]
[* Include all delivery costs to the construction site .]

(3) Unless the Federal Government determines that an exception to the section 1605 of the Recovery Act applies, use of foreign iron, steel, and/or manufactured goods other than designated country iron, steel, and/or manufactured goods is noncompliant with the applicable Act.

(d) **Data.** To permit evaluation of requests under paragraph (b) of this term and condition based on unreasonable cost, the applicant shall include the following information and any applicable supporting data based on the survey of suppliers:

[List name, address, telephone number, email address, and contact for suppliers surveyed . Attach copy of response; if oral, attach summary.]
[Include other applicable supporting information .]
[* Include all delivery costs to the construction site).]

23. Transparency and Accountability - Single Audit Information for Recipients of Recovery Act Funds

Recovery Act Transactions listed in Schedule of Expenditures of Federal Awards and Recipient

Responsibilities for Informing Sub -recipients

(a) To maximize the transparency and accountability of funds authorized under the American Recovery and Reinvestment Act of 2009 (Public Law 111-5)(Recovery Act) as required by Congress and in accordance with 2 CFR 215, subpart ___. 21 "Uniform Administrative Requirements for Grants and Agreements" and OMB A-102 Common Rules provisions, recipients agree to maintain records that identify adequately the source and application of Recovery Act funds.

(b) For recipients covered by the Single Audit Act Amendments of 1996 and OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations," recipients agree to separately identify the expenditures for Federal awards under the Recovery Act on the Schedule of Expenditures of Federal Awards (SEFA) and the Data Collection Form (SF-SAC) required by OMB Circular A-133. This shall be accomplished by identifying expenditures for Federal awards made under Recovery Act separately on the SEFA, and as separate rows under Item 9 of Part III on the SF-SAC by CFDA number, and inclusion of the prefix "ARRA-" in identifying the name of the Federal program on the SEFA and as the first characters in Item 9d of Part III on the SF-SAC.

(c) Recipients agree to separately identify to each sub-recipient, and document at the time of sub-award and at the time of disbursement of funds, the Federal award number, CFDA number, and amount of Recovery Act funds. When a recipient awards Recovery Act funds for an existing program, the information furnished to sub-recipients shall distinguish the sub-awards of incremental Recovery Act funds from regular sub-awards under the existing program.

(d) Recipients agree to require their sub-recipients to include on their SEFA information to specifically identify Recovery Act funding similar to the requirements for the recipient SEFA described above. This information is needed to allow the recipient to properly monitor sub-recipient expenditure of ARRA funds as well as oversight by the Federal awarding agencies, Offices of Inspector General and the Government Accountability Office.

24. PAYMENT TO CONSULTANTS

EPA participation in the salary rate (excluding overhead) paid to individual consultants retained by recipients or by a recipient's contractors or subcontractors shall be limited to the maximum daily rate for a Level IV of the Executive Schedule (formerly GS-18), to be adjusted annually. This limit applies to consultation services of designated individuals with specialized skills who are paid at a daily or hourly rate. As of January 1, 2009, the limit is $587.20 per day and $73.40 per hour. This rate does not include transportation and subsistence costs for travel performed (the recipient will pay these in accordance with their normal travel reimbursement practices).

Subagreements with firms for services which are awarded using the procurement requirements in 40 CFR 30 or 31, as applicable, are not affected by this limitation unless the terms of the contract provide the recipient with responsibility for the selection, direction, and control of the individuals who will be providing services under the contract at an hourly or daily rate of compensation. See 40 CFR 31.36(j) or 30.27(b).

25. OMB GUIDANCE

This award is subject to all applicable provisions of implementing guidance for the American Recovery and Reinvestment Act of 2009 issued by the United States Office of Management and Budget, including the Initial Implementing Guidance for the American Recovery and Reinvestment Act (M-09-10) issued on February 18, 2009 and available on www.recovery.gov, and any subsequent guidance documents issued by OMB.

26. ADDITIONAL FUNDING DISTRIBUTION AND ASSURANCE OF APPROPRIATE USE OF FUNDS

Not later than 45 days after the enactment of ARRA and prior to receiving funds, Recipient must affirm that either (1) the State Governor has certified that the State will request and use funds provided by the Act and the funds will be used to create jobs and promote economic growth, or (2) if funds are not accepted for use by the Governor of the State, the State legislature has accepted the funds by means of adopting a concurrent resolution. After a State legislature's concurrent resolution, funding within the State shall be distributed to local governments, councils of government, public entities, and public-private entities within

the State either by formula or at the State's discretion.

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

28. UTILIZATION OF SMALL, MINORITY AND WOMEN'S BUSINESS ENTERPRISES

GENERAL COMPLIANCE, 40 CFR, Part 33

The recipient agrees to comply with the requirements of EPA's Program for Utilization of Small, Minority and Women's Business Enterprises in procurement under assistance agreements, contained in 40 CFR, Part 33.

FAIR SHARE OBJECTIVES, 40 CFR, Part 33, Subpart D

A recipient must negotiate with the appropriate EPA award official, or his/her designee, air share objectives for MBE and WBE (MBE/WBE) participation in procurement under the financial assistance agreements.

Accepting the Fair Share Objectives /Goals of Another Recipient

The dollar amount of this assistance agreement is $250,000, or more; or the total dollar amount of all of the recipient's non-TAG assistance agreements from EPA in the current fiscal year is $250,000, or more. The recipient accepts the applicable MBE/WBE fair share objectives/goals negotiated with EPA by the **STATE OF FLORIDA DEP** as follows:

MBE: CONSTRUCTION 9.0%; SUPPLIES 9%; SERVICES 9%; EQUIPMENT 9%
WBE: CONSTRUCTION 3.0%; SUPPLIES 3%; SERVICES 3%; EQUIPMENT 3%

By signing this financial assistance agreement, the recipient is accepting the fair share objectives/goals stated above and attests to the fact that it is purchasing the same or similar construction, supplies, services and equipment, in the same or similar relevant geographic buying market as **STATE OF FLORIDA DEP.**

Negotiating Fair Share Objectives /Goals, 40 CFR, Section 33.404

The recipient has the option to negotiate its own MBE/WBE fair share objectives/goals. If the recipient wishes to negotiate its own MBE/WBE fair share objectives/goals, the recipient agrees to submit proposed MBE/WBE objectives/goals based on an availability analysis, or disparity study, of qualified MBEs and WBEs in their relevant geographic buying market for construction, services, supplies and equipment.

The submission of proposed fair share goals with the supporting analysis or disparity study means that the recipient is **not** accepting the fair share objectives/goals of another recipient. The recipient agrees to submit proposed fair share objectives/goals, together with the supporting availability analysis or disparity study, to the Regional MBE/WBE Coordinator within 120 days of its acceptance of the financial assistance award. EPA will respond to the proposed fair share objective/goals within 30 days of receiving the submission. If proposed fair share objective/goals are not received within the 120 day time frame, the recipient may not expend its EPA funds for procurements until the proposed fair share objective/goals are submitted.

SIX GOOD FAITH EFFORTS, 40 CFR, Part 33, Subpart C

Pursuant to 40 CFR, Section 33.301, the recipient agrees to make the following good faith efforts whenever procuring construction, equipment, services and supplies under an EPA financial assistance agreement, and to require that sub-recipients, loan recipients, and prime contractors also comply. Records documenting compliance with the six good faith efforts shall be retained:

(a) Require DBEs 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 SBA and the Minority Business Development Agency of the Department of Commerce.

(f) If the prime contractor awards subcontracts, require the prime contractor to take the steps in paragraphs (a) through (e) of this section.

MBE/WBE REPORTING, 40 CFR, Part 33, Sections 33.502 and 33.503

The recipient agrees to complete and submit 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. **Only procurements with certified MBE /WBEs are counted toward a recipient's MBE /WBE accomplishments.** The reports must be submitted **semiannually** for the periods ending March 31st and September 30th for:

Recipients of financial assistance agreements that capitalize revolving loan programs (CWSRF, DWSRF, Brownfields); and

All other recipients not identified as annual reporters (40 CFR Part 30 and 40 CFR Part 35, Subpart A and Subpart B recipients are annual reporters).

The reports are due within 30 days of the end of the semiannual reporting periods (April 30th and October 30th). Reports should be sent to :

EPA Grants Management Office
61 Forsyth Street SW
Atlanta, GA 30303

Final MBE/WBE reports must be submitted within 90 days after the project period of the grant ends. Your grant cannot be officially closed without all MBE /WBE reports.

EPA Form 5700-52A may be obtained from the EPA Office of Small Business Program's Home Page on the Internet at www.epa.gov/osbp.

CONTRACT ADMINISTRATION PROVISIONS, 40 CFR, Section 33.302

The recipient agrees to comply with the contract administration provisions of 40 CFR, Section 33.302.

BIDDERS LIST, 40 CFR, Section 33.501(b) and (c)

Recipients of a Continuing Environmental Program Grant or other annual reporting grant, agree to

create and maintain a bidders list. Recipients of an EPA financial assistance agreement to capitalize a revolving loan fund also agree to require entities receiving identified loans to create and maintain a bidders list if the recipient of the loan is subject to, or chooses to follow, competitive bidding requirements. Please see 40 CFR, Section 33.501 (b) and (c) for specific requirements and exemptions.

29. This project receives funding under the American Recovery and Reinvestment Act of 2009 (ARRA) and the grantee, sub-grantee or loan recipient must display the ARRA Logo in a manner that informs the public that the project is an ARRA investment. The ARRA logo may be obtained from the EPA grants office listed in this award document. If the EPA logo is displayed along with the ARRA logo and logos of other participating entities, the EPA logo must not be displayed in a manner that implies that EPA itself is conducting the project. Instead, the EPA logo must be accompanied with a statement indicating that the grantee, sub-grantee or loan recipient received financial assistance from EPA for the project.

30. Recipients and subrecipients of Recovery Act funds or other Federal financial assistance must comply with Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975, and a variety of program-specific statutes with nondiscrimination requirements.

Other civil rights laws may impose additional requirements on recipients and subrecipients. These laws include, but are not limited to, Title VII of the Civil Rights Act of 1964 (prohibiting race, color, national origin, religion, and sex discrimination in employment), the Americans with Disabilities Act (prohibiting disability discrimination in employment and in services provided by State and local governments, businesses, and non-profit agencies), and the Fair Housing Act (prohibiting race, color, national origin, age, family status, and disability discrimination in housing), as well as any other applicable civil rights laws.

For questions about these civil rights obligations, please call the EPA's Office of Civil Rights at 202-564-7272 or contact us via e-mail: http://www.epa.gov/civilrights/comments.htm.

31. SINGLE AUDIT INFORMATION FOR RECIPIANTS OF RECOVERY ACT FUNDS

Recovery Act Transactions listed in Schedule of Expenditures of Federal Awards and Recipient Responsibilities for Informing Sub -recipients

(a) To maximize the transparency and accountability of funds authorized under the American Recovery and Reinvestment Act of 2009 (Public Law 111-5)(Recovery Act) as required by Congress and in accordance with 2 CFR 215, subpart ___. 21 "Uniform Administrative Requirements for Grants and Agreements" and OMB A-102 Common Rules provisions, recipients agree to maintain records that identify adequately the source and application of Recovery Act funds.

(b) For recipients covered by the Single Audit Act Amendments of 1996 and OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations," recipients agree to separately identify the expenditures for Federal awards under the Recovery Act on the Schedule of Expenditures of Federal Awards (SEFA) and the Data Collection Form (SF-SAC) required by OMB Circular A-133. This shall be accomplished by identifying expenditures for Federal awards made under Recovery Act separately on the SEFA, and as separate rows under Item 9 of Part III on the SF-SAC by CFDA number, and inclusion of the prefix "ARRA-" in identifying the name of the Federal program on the SEFA and as the first characters in Item 9d of Part III on the SF-SAC.

(c) Recipients agree to separately identify to each sub-recipient, and document at the time of sub-award and at the time of disbursement of funds, the Federal award number, CFDA number, and amount of Recovery Act funds. When a recipient awards Recovery Act funds for an existing program, the information furnished to sub-recipients shall distinguish the sub-awards of incremental Recovery Act funds from regular sub-awards under the existing program.

(d) Recipients agree to require their sub-recipients to include on their SEFA information to specifically identify Recovery Act funding similar to the requirements for the recipient SEFA described above. This information is needed to allow the recipient to properly monitor sub-recipient expenditure of ARRA funds as well as oversight by the Federal awarding agencies, Offices of Inspector General and the Government

Accountability Office.

Programmatic Conditions

1. Substantial Federal Involvement for Cooperative Agreements
EPA will provide substantial involvement in the form of technical assistance, development of outputs, and oversight. Specifically, substantial federal involvement will take the form of monitoring the project by EPA; participation and collaboration between EPA and the recipient in program content; review of project progress, and quantification and reporting of results; Recipient agrees to comply with 40 C.F.R. 31 for assistance agreements.

2. Emissions Control Technologies
Certified engine configurations and/or verified technologies must be used for Emissions Control Projects funded by the recipient pursuant to this assistance agreement. Technologies are verified under EPA or California's Retrofit Verification Program. See http://www.epa.gov/otaq/retrofit/retroverifiedlist.htm for an updated list of EPA's verified technologies and http://www.arb.ca.gov/diesel/verdev/vt/cvt.htm for a list of CARB's verified technologies. Any question as to the preference of a retrofit technology, including engine replacement and repowers, should be directed to the EPA Project Officer.

3. Quarterly Reporting and Environmental Results
Quarterly progress reports will be required. Quarterly reports are considered project status reports and will address the progress made regarding achieving the work plan goals. In general, quarterly reports will include summary information on technical progress, planned activities for next quarter and expenditures. Award recipients will be provided with additional information and guidance on reporting performance measures and project progress, including those related to the Recovery Act, and a schedule for submission of quarterly reports, after award. Recipient agrees to comply with Division A, Title XV, Subtitle A, §1512 of the Recovery Act (section 1512) and any other regulations or guidance related to the reporting requirements of section 1512 of the Recovery Act issued by the OMB or EPA.

The first reporting period begins at the project start date.

Q1: October 1 -December 31
Q2: January 1 - March 31
Q3: April 1- June 30
Q4: July - September 30

This quarterly reporting schedule shall be repeated for the duration of the award agreement.

4. Final Report:
The final project report will include a summary or the project or activity, actual results (outputs and outcomes) and costs, the successes and lessons learned for the entire project as well as all categories of information required for quarterly reporting. This report shall be submitted to the Project Officer within 90 days after the expiration or termination of the assistance agreement. Recipient understands that the final report will include actual emissions benefit calculations and an updated, detailed fleet description. Recipient agrees to comply with Division A, Title XV, Subtitle A, §1512 of the Recovery Act (section 1512) and any other regulations or guidance related to the reporting requirements of section 1512 of the Recovery Act issued by the OMB or EPA.

5. Use of Funds Restriction :
Recipient agrees that funds under this award cannot be used for emissions reductions that are mandated under Federal, State or local law. This refers to specific compliance dates within the mandate, not when the mandate is passed. Voluntary or elective emissions reductions measures shall not considered to be "mandated", regardless of whether the reductions are included in the State implementation plan of a State.

6. Delays or Favorable Developments :
The recipient agrees that it will promptly notify EPA of any problems, delays, or adverse conditions which may materially impair its ability to deliver on the outputs /outcomes specified in the work plan. This disclosure must include a statement of the action taken, or contemplated, and any assistance needed to resolve the situation. The recipient agrees that it will also notify EPA of any favorable developments which may enable meeting time schedules and objectives sooner or at less cost than anticipated or producing more beneficial results than originally planned.

7. Procurement and Sub -grant Procedures:
The recipient must follow applicable procurement and sub-grant procedures. EPA will not be a party to these transactions. If EPA funds are used to purchase goods or services, Recipient agrees to compete the contracts for those goods and services and conduct cost and price analyses to the extent required by the fair and open competition for procurement provisions of 40 CFR Part 31, as appropriate. Approval of a funding proposal does not relieve recipients of their obligations to compete service contracts , conduct cost and price analyses, and use sub-grants only for financial assistance purposes, in accordance with Subpart B Section .210 of OMB Circular A-133.

8. Employee and /or Contractor Selection :
EPA will not help select employees or contractors hired by the recipient.

9. Program Income:
If program income is generated during the course of the project, program income requirements apply. Program income is defined as gross income received by the grantee or subgrantee directly generated by a grant supported activity, or earned only as a result of the grant agreement during the grant period. "During the grant period" is the time between the effective date of the award and the ending date of the award reflected in the final financial report. Program income earned during the project period shall be retained by the recipient and, in accordance with 40 CFR Parts 31.25, recipient is authorized to use program income as follows:

(a) Program income may be added to funds committed to the project by EPA and recipient and used to further eligible project or program objectives. The program income shall be used for the purposes and under the conditions of the grant agreement.

(b) Program income may be used to finance the non-Federal share of the project or program, including any mandatory or voluntary cost-share. The amount of the Federal grant award remains the same.

(c) Deducted from the total project or program allowable cost in determining the net allowable costs on which the Federal share of costs is based. This means that the recipient shall spend program income on project activities before spending/requesting federal funds for project activities. This may result in unspent federal funds at the end of the project period.

The recipient will maintain records adequate to document the extent to which transactions generate program income and the disposition of program income.

10. Scrappage and /or Remanufacture:
The recipient agrees to complete scrappage or remanufacture in the case of repowers and replacements for all projects funded under this assistance agreement, including subawards/subgrants. To be considered a repower or replacement, the purchase of new vehicles, engines, and equipment must be accompanied by the scrappage or remanufacturing of old vehicles, engines and equipment. The purchase of new vehicles, engines or equipment to expand a fleet is not covered by this assistance agreement.

Scrappage is defined as a permanently disabled engine or vehicle, no longer suitable for use. Engine scrappage can be completed by drilling a hole in the engine block and manifold. Vehicle scrappage requires permanently disabling the chassis, e.g. cutting it in half. Other acceptable scrapping methods may be considered, with EPA approval. Owner/operators of the original vehicle or equipment may retain

possession of the scrapped engine and chassis.

If remanufactured, scrapped or salvaged engines/vehicles are to be sold, program income requirements apply. Evidence of appropriate disposal, including the engine serial number and/or Vehicle Identification Number (VIN), is required in a final assistance agreement report submitted to EPA.

For engine repower and/or vehicle replacement, the recipient agrees to the following:

a. The vehicle, engine, or equipment being replaced will be scrapped within ninety (90) days of the replacement, or the replaced vehicle, engine, or equipment will be returned to the original engine manufacturer for remanufacturing to a cleaner standard;

b. The replacement vehicle, engine, or equipment will perform the same function as the vehicle, engine, or equipment that is being replaced (e.g., an excavator used to dig pipelines would be replaced by an excavator that continues to dig pipelines);

c. The replacement vehicle, engine, or equipment will be of the same type and similar gross vehicle weight rating or horsepower as the vehicle, engine, or equipment being replaced (e.g., a 300 horsepower bulldozer is replaced by a bulldozer of similar horsepower);

d. Early Replacement: Funds may be used for the early replacement of vehicles, engines and/or equipment. Emission reductions that result from vehicle, engine, or equipment replacements that would have occurred through normal attrition are considered to be the result of normal fleet turnover and are not eligible costs under this assistance agreement. The recipient must provide evidence that the replacement activity would not have occurred without the financial assistance provided by EPA. Supporting evidence can include verification that the vehicles or equipment being replaced have useful life left and fleet characterization showing fleet age ranges and average turnover rates.

e. For tire replacement projects, the original tires should be scrapped according to local or state requirements, or the tires can be salvaged for reuse or retreading. The salvaged value of the original tires must be treated as program income.

11. Uniform Administrative Requirements
Recipient agrees to comply with 40 C.F.R. Part 31, Uniform Administrative Requirements for Grants and Cooperative Agreements to States and Local Governments.

Work under this agreement must be completed in accordance with the approved work plan submitted with the application dated
April 30, 2009. Recipient agrees to obtain the prior approval of EPA for any revision of the scope or objectives of the project or the need to extend the period of availability of funds, in accordance with 40 CFR Section 31.30.

Recipient shall consult the Project Officer regarding whether a budget or work plan revision constitutes a change in the scope or the objective of the project or program.

12. Equipment Disposition :
Recipient agrees that at the end of the project period the equipment acquired under this assistance agreement will be subject to the property disposition regulations at 40 CFR 31.32.

State agencies may use, manage, and dispose of equipment acquired under assistance agreements in accordance with State laws and procedures.

13. *(NOTE: Not final, place holder language. Condition will be revised when final .)*
Wage Rate Requirements under Section 1606 of the American Recovery and Reinvestment Act of 2009 for Diesel Emissions Reductions Projects

Preamble

Section 1606 of the Recovery Act requires that all laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to the Recovery Act shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code.

Pursuant to Reorganization Plan No. 14 and the Copeland Act, 40 U.S.C. 3145, the Department of Labor has issued regulations at 29 CFR Parts 1, 3, and 5 to implement the Davis-Bacon and related Acts. Regulations in 29 CFR 5.5 instruct agencies concerning application of the standard Davis-Bacon contract clauses set forth in that section. Federal agencies providing grants, cooperative agreements, and loans under the Recovery Act shall ensure that the standard Davis-Bacon contract clauses found in 29 CFR 5.5(a) are incorporated in any resultant covered contracts that are in excess of $2,000 for construction, alteration or repair (including painting and decorating).

For additional guidance on the wage rate requirements of section 1606, contact your awarding agency. Recipients of grants, cooperative agreements and loans should direct their initial inquiries concerning the application of Davis-Bacon requirements to a particular federally assisted project to the Federal agency funding the project. The Secretary of Labor retains final coverage authority under Reorganization Plan Number 14.

For the purposes of this term and condition, EPA has determined that the following Diesel Emissions Reduction activities are subject to the Davis Bacon Act (DBA).
Construction activities conducted in conjunction with the installation of any diesel emissions reduction technology, such as the installation of a Truck Stop Electrification (TSE) system.
Construction activities conducted in conjunction with the installation or replacement of a heavy generator.

Installation of verified technologies by construction laborers and/or construction mechanics on-site at a construction site on vehicles and/or equipment at the construction site.
Repower projects conducted by construction laborers and/or construction mechanics on-site at a construction site on vehicles and/or equipment at the construction site.

Most other DERA funded activities, such as other retrofit, repower, and replacement projects do not trigger DBA requirements. However, if a recipient encounters a unique situation at a site that presents uncertainties regarding David Bacon applicability, the recipient must discuss the situation with EPA before authorizing work on that project.

Recipient shall comply with Division A, Title XVI, §1606 of the Recovery Act, where applicable. Pending a final award condition and guidance from EPA, projects subject to the Davis Bacon Act, as defined above, shall not proceed with any contract bidding or contract in excess of $2,000 which is entered into for the actual construction, alteration and/or repair, including painting and decorating, of a public building or public work, or building or work financed in whole or in part from Federal funds or in accordance with guarantees of a Federal agency or financed from funds obtained by pledge of any contract of a Federal agency to make a loan, grant or annual contribution (except where a different meaning is expressly indicated), and which is subject to the labor standards provisions of any of the acts listed in 29 CFR § 5.1.

Shevella Wilson
Grants and IAG Section (14th Floor)
U.S. Environmental Protection Agency
61 Forsyth Street, S.W.
Atlanta, GA 30303

(404) 562-8414

EPA- NATIONAL CLEAN DIESEL ASSISTANCE PROGRAM
CFDA #66.039

PROJECT: MIAMI-DADE COUNTY HYBRID TRANSIT BUSES
APPLICANT: MIAMI-DADE TRANSIT
CONTACT: MR. ROBERT MCCLELLAN, CHIEF
305-638-7259

ATTACHMENT: JOBS CALCULATION FORMULA CALCULATION FOR DIESEL EMISSIONS REDUCTION ACT GRANTS

For this application, Miami-Dade Transit is using the formula provided by the Manufacturers of Emission Controls Association (MECA) that is being widely used. Using this formula, which builds on the study conducted by Keybridge Research regarding the macroeconomic impacts associated with DERA funding, allows for all projects to be consistently reviewed on their ability to preserve or create jobs and promote economic recovery, and to maximize job creation and economic benefit, as outlined by the RFA.

Miami-Dade Transit will replace five of the oldest vehicles in its fleet with buses that use Diesel-Electric Hybrid technology. Using the Jobs per Millions figure from the MECA study, the number of jobs that will be created is calculated as follows:

Total Project Cost (in millions) - (TPC) = $2.975
Percent of TPC for Retrofit (as a decimal number) - RT = 0.0
Percent of TPC for Replacement (as a decimal number) - RP = 1.0

Jobs/Million = (0.0)(21.15) + (1.0)(14.9) =14.9

Total Jobs = 14.9 x 2.975 = 44.3275

The total number of jobs that will be created by the replacement of five Transit buses will be 44.3275 jobs.