FEDERAL FINANCIAL ASSISTANCE
AWARD OF DOMESTIC GRANT 11-DG-11030121-005
Between The
GILA COUNTY PUBLIC WORKS DIVISION
And The
USDA, FOREST SERVICE
APACHE-SITGREAVES NATIONAL FOREST

Project Title: FDR 512 Young Road Maintenance Project

Upon execution of this document, an award to Gila County Public Works Division, hereinafter referred to as "Gila County," in the amount of $601,065.00, is made under the authority of Title II of the Secure Rural Schools and Community Self-determination Act of 2000, Public Law 106-393, 16 U.S.C. 500 as reauthroized and amended by the Emergency Economic Stabilization Act of 2008, Energy Improvement and Extension Act of 2008, and Tax Extenders and Alternative Minimum Tax Relief Act of 2008, Section 601 (a) in division C of Public Law 110-34.

Gila County accepts this award for the purpose described in the application narrative. Your application for Federal financial assistance, dated March 2, 2010, and the attached U.S. Forest Service provisions, 'U.S. Forest Service Award Provisions,' are incorporated into this letter and made a part of this award.

In 2008 Gila County received $674,080.00 from the Public Lands Highways Discretionary (PLHD) Awards to pave the FDR 512, Young Road. It is Gila County's intention to match grant funds from the Schools and Roads Program with PLHD funds. Gila County will be responsible for any and all cost overruns on this maintenance project.

This is an award of Federal financial assistance and is subject to the Office of Management and Budget (OMB) Circulars A-102, Grants and Cooperative Agreements with State and Local Governments, as implemented by USDA regulations 7 CFR 3016, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, 7 CFR 3015, OMB Circular A-87, Cost Principles for State, Local and Indian Tribal Governments;, and OMB Circular A-133 as implemented by USDA regulation 7 CFR 3052. All Federal and Recipient matching/cost-share contributions are subject to all relevant OMB Circulars.

The OMB Circulars are available on the internet at http://www.whitehouse.gov/omb/grants_default/. Electronic copies of the CFRs can be obtained at the following internet site: http://www.gpoaccess.gov/cfr/index.html. If you are unable to retrieve these regulations electronically, please contact your Grants and Agreements Office at 928.527.3561.

Effective October 1, 2010, recipients are required to report information on subaward and executive total compensation, as required by the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. 109-282), as amended by section 6202 of Public Law 110-252, hereinafter referred to as "the Transparency Act." See the award terms in Attachment B: 2 CFR Part 170.

The following administrative provisions apply to this award:

A. LEGAL AUTHORITY. Gila County shall have the legal authority to enter into this agreement, and the institutional, managerial, and financial capability to ensure proper planning, management, and completion of the project, which includes funds sufficient to pay the nonfederal share of project costs, when applicable.

B. PRINCIPAL CONTACTS. Individuals listed below are authorized to act in their respective areas for matters related to this instrument.

Principal Cooperator Contacts:

Cooperator Program Contact	Cooperator Administrative Contact
Steve Sanders Deputy Director Gila County Public Works 1400 East Ash Street Globe, AZ 85501-1483 Phone: 928.812.0336 FAX: 928.425.8104 Email: ssanders@co.gila.az.us	Diana Jones Grant Coordinator Gila County Public Works 1400 East Ash Street Globe, AZ 85501-1483 Phone: 928.402.8516 FAX: 928.425.8104 Email: djones@co.gila.aqz.us

Principal U.S. Forest Service Contacts:

U.S. Forest Service Program Manager Contact	U.S. Forest Service Administrative Contact
Julia Faith Rivera RAC Program Manager Apache-Sitgreaves National Forests PO Box 640 30 E. Chiricahua Springerville, AZ 85938-0640 Phone: 928.333.6336 FAX: 928.333.5966 Email: jfrivera@fs.fed.us	Elizabeth Vensel Grants and Agreements Specialist Coconino National Forest 1824 South Thompson Street Flagstaff, AZ 86001-2693 Phone: 928.527.3561 FAX: 928.527.3620 Email: evensel@fs.fed.us

C. AVAILABILITY OF FUNDS. U.S. Forest Service funds in the amount of **$601,065.00** are currently available for performance of this instrument through **December 30, 2010**. The U.S. Forest Service's obligation for performance of this instrument beyond this date is contingent upon the availability of appropriated funds from which payment can be made. No legal liability on the part of the U.S. Forest Service for any payment may arise for performance under this instrument beyond **December 30, 2010** until funds are made available to the U.S. Forest Service for performance and until Gila County receive(s) notice of availability to be confirmed in a written modification by the U.S. Forest Service.

D. REIMBURSABLE PAYMENTS – FINANCIAL ASSISTANCE. See provision I in the attachment, 'U.S. Forest Service Award Provisions.'

E. PRE-AWARD COSTS FOR STATE, LOCAL, AND INDIAN TRIBAL GOVERNMENTS Pursuant to OMB Circular A-87, Attachment B, No. 31, **pre-award costs incurred as of September 15, 2010**, are hereby authorized under this instrument.

F. PROGRAMMATIC CHANGES. Gila County shall obtain prior approval for any change to the scope of objectives of the approved project, key personnel, or transfer of substantive programmatic work to another party.

G. MODIFICATIONS. Modifications within the scope of this award shall be made by mutual consent of the parties, by the issuance of a written modification signed and dated by all properly authorized, signatory officials, prior to any changes being performed. Requests for modification should be made, in writing, at least 30 days prior to implementation of the requested change. The U.S. Forest Service is not obligated to fund any changes not properly approved in advance.

H. COMMENCEMENT/EXPIRATION DATE. This award is executed as of the date of the last signature and is effective through **December 30, 2010** at which time it will expire, unless extended by an executed modification, signed and dated by all properly authorized, signatory officials.

I. AUTHORIZED REPRESENTATIVES. By signature below, each party certifies that the individuals listed in this document as representatives of the individual parties are authorized to act in their respective areas for matters related to this award. In witness whereof, the parties hereto have executed this award as of the last date written below.

_____

MICHAEL A. PASTOR, Chairman
Gila County Board of Supervisors

Date: _____

ATTEST:

_____

JOHN NELSON, Clerk of the Board

Approved as to form:

_____

BRYAN CHAMBERS, Chief Deputy County Attorney

_____

CHRIS KNOPP, Forest Supervisor
US Forest Service, Apache-Sitgreaves National Forest

Date: _____

The authority and format of this instrument have been reviewed and approved for signature.

_____ 10/27/10

ELIZABETH A. VENSEL — Date
U.S. Forest Service
Grants & Agreements Specialist

ATTACHMENT A: U.S. FOREST SERVICE AWARD PROVISIONS

A. NON-LIABILITY. The U.S. Forest Service does not assume liability for any third party claims for damages arising out of this award.

B. NOTICES. Any notice given by the U.S. Forest Service or Gila County will be sufficient only if in writing and delivered in person, mailed, or transmitted electronically by e-mail or fax, as follows:

To the U.S. Forest Service Program Manager, at the address specified in the grant.

To Gila County, at Gila County's address shown in the grant or such other address designated within the grant.

Notices will be effective when delivered in accordance with this provision, or on the effective date of the notice, whichever is later.

C. MEMBERS OF U.S. CONGRESS. Pursuant to 41 U.S.C. 22, no United States member of, or United States delegate to, Congress shall be admitted to any share or part of this award, or benefits that may arise therefrom, either directly or indirectly.

D. TRAFFICKING IN PERSONS.

1. Provisions applicable to a Recipient that is a private entity.

a. You as the Recipient, your employees, subrecipients under this award, and subrecipients' employees may not—

(1) Engage in severe forms of trafficking in persons during the period of time that the award is in effect;

(2) Procure a commercial sex act during the period of time that the award is in effect; or

(3) Use forced labor in the performance of the award or subawards under the award.

b. We as the Federal awarding agency may unilaterally terminate this award, without penalty, if you or a subrecipient that is a private entity —

(1) Is determined to have violated a prohibition in paragraph a.1 of this award term; or

(2) Has an employee who is determined by the agency official authorized to terminate the award to have violated a prohibition in paragraph a.1 of this award term through conduct that is either—

i. Associated with performance under this award; or

ii. Imputed to you or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, ''OMB Guidelines to Agencies on Government wide Debarment and Suspension (Nonprocurement),'' as implemented by our agency at 7 CFR 3017.

2. Provision applicable to a Recipient other than a private entity. We as the Federal awarding agency may unilaterally terminate this award, without penalty, if a subrecipient that is a private entity—

a. Is determined to have violated an applicable prohibition in paragraph a.1 of this award term; or

b. Has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in paragraph a.1 of this award term through conduct that is either—

(1) Associated with performance under this award; or

(2) Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, ''OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),'' as implemented by our agency at 7 CFR 3017.

3. Provisions applicable to any recipient.

a. You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in paragraph a.1 of this award term.

b. Our right to terminate unilaterally that is described in paragraph a.2 or b of this section:

(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 paragraph a.1 of this award term in any subaward you make to a private entity.

4. Definitions. For purposes of this award term:

a. ''Employee'' means either:

(1) An individual employed by you or a subrecipient who is engaged in the performance of the project or program under this award; or

(2) Another person engaged in the performance of the project or program under this award and not compensated by you including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.

b. ''Forced labor'' means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

c. ''Private entity'':

(1) Means any entity other than a State, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 CFR 175.25.

(2) Includes:

i. A nonprofit organization, including any nonprofit institution of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe at 2 CFR 175.25(b).

ii. A for-profit organization.

d. ''Severe forms of trafficking in persons,'' ''commercial sex act,'' and ''coercion'' have the meanings given at section 103 of the TVPA, as amended (22 U.S.C. 7102).

E. DRUG-FREE WORKPLACE.

1. Gila County agree(s) that it will publish a drug-free workplace statement and provide a copy to each employee who will be engaged in the performance of any project/program that receives federal funding. The statement must

a. Tell the employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in its workplace;

b. Specify the actions Gila County will take against employees for violating that prohibition; and

c. Let each employee know that, as a condition of employment under any instrument, he or she

(1) Must abide by the terms of the statement, and

(2) Must notify you in writing if he or she is convicted for a violation of a criminal drug statute occurring in the workplace, and must do so no more than five calendar days after the conviction.

2. Gila County agree(s) that it will establish an ongoing drug-free awareness program to inform employees about

a. The dangers of drug abuse in the workplace;

b. Your policy of maintaining a drug-free workplace;

c. Any available drug counseling, rehabilitation and employee assistance programs; and

d. The penalties that you may impose upon them for drug abuse violations occurring in the workplace.

3. Without the U.S. Forest Service's expressed written approval, the policy statement and program must be in place as soon as possible, no later than the 30 days after the effective date of this instrument, or the completion date of this instrument, whichever occurs first.

4. Gila County agree(s) to immediately notify the U.S. Forest Service if an employee is convicted of a drug violation in the workplace. The notification must be in writing, identify the employee's position title, the agreement number of each instrument on which the employee worked. The notification must be sent to the U.S. Forest Service within ten calendar days after Gila County learn(s) of the conviction.

5. Within 30 calendar days of learning about an employee's conviction, Gila County must either

a. Take appropriate personnel action against the employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973 (29 USC 794), as amended, or

b. Require the employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for these purposes by a Federal, State or local health, law enforcement, or other appropriate agency.

F. ELIGIBLE WORKERS. Gila County shall ensure that all employees complete the I-9 form to certify that they are eligible for lawful employment under the Immigration and Nationality Act (8 USC 1324a). Gila County shall comply with regulations regarding certification and retention of the completed forms. These requirements also apply to any contract or supplemental instruments awarded under this award.

G. FINANCIAL STATUS REPORTING. A Federal Financial Report, form SF-425 (and Federal Financial Report Attachment SF-425A, if required for reporting multiple grants), must be submitted quarterly. The final SF-425 (and SF-425A, if applicable) must be submitted either with the final payment request or no later than 90 days from the expiration date of the instrument. These forms may be found at www.whitehouse.gov/omb/grants_forms.

H. REPORT OF FEDERAL CASH TRANSACTIONS. Using SF-425, Federal Financial Report, Gila County shall submit a report of federal cash transaction within 15 calendar days following the end of each quarter, unless otherwise agreed upon in writing. A final financial status report is required within 90 days from the expiration date of this instrument.

I. REIMBURSABLE PAYMENTS – FINANCIAL ASSISTANCE. Reimbursable payments are approved under this award. Only costs for those project activities approved in (1) the initial award, or (2) modifications thereto, are allowable. Requests for payment shall be submitted on Standard Form (SF) 271, Request for Reimbursement Construction, and shall be submitted no more than monthly. In order to approve a Request for Advance Payment or Reimbursement, the U.S. Forest Service shall review such requests to ensure advances or payments for reimbursement are in compliance and otherwise consistent with OMB, USDA, and U.S. Forest Service regulations. Advance payments shall not exceed the minimum amount needed or no more than is needed for a 30-day period, whichever is less. If Gila County receive(s) an advance payment and subsequently requests an advance or reimbursement payment, then the request must clearly demonstrate that the previously advanced funds have been fully expended before the U.S. Forest Service can approve the request for payment. Any funds advanced, but not spent, upon expiration of this award shall be returned to the U.S. Forest Service.

The invoice must be sent by one of three methods (email is preferred):

EMAIL: asc_ga@fs.fed.us

FAX: 877-687-4894

POSTAL: Albuquerque Service Center
Payments – Grants & Agreements
101B Sun Ave NE
Albuquerque, NM 87109

Send a copy to: Julia Faith Rivera, RAC Program Mgr
Apache-Sitgreaves National Forest
PO Box 640
Springerville, AZ 85938-0640

J. AWARD CLOSEOUT. Gila County shall close out the grant within 90 days after expiration or notice of termination.

Any unobligated balance of cash advanced to Gila County shall be immediately refunded to the U.S. Forest Service, including any interest earned in accordance with 7 CFR 3016.21, 7 CFR 3019.22, or other relevant law or regulation.

Within a maximum of 90 days following the date of expiration or termination of this grant, all financial performance and related reports required by the terms of the award shall be submitted to the U.S. Forest Service by Gila County.

If this award is closed out without audit, the U.S. Forest Service reserves the right to disallow and recover an appropriate amount after fully considering any recommended disallowances resulting from an audit which may be conducted later.

K. PROGRAM PERFORMANCE REPORTS. Gila County shall monitor the performance of the grant activities to ensure that performance goals are being achieved.

Performance reports shall contain information on the following:

- A comparison of actual accomplishments to the goals established for the period. Where the output of the project can be readily expressed in numbers, a computation of the cost per unit of output may be required if that information is useful.

- Reason(s) for delay if established goals were not met.

- Additional pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.

Gila County shall submit quarterly performance reports. These reports are due 90 days after the reporting period. The final performance report shall be submitted either with Gila County's final payment request, or separately, but not later than 90 days from the expiration date of the grant.

L. NOTIFICATION. Gila County shall immediately notify the U.S. Forest Service of developments that have a significant impact on the activities supported under this grant. Also, notification shall be given in case of problems, delays or adverse conditions that materially impair the ability to meet the objectives of the agreement. This notification shall include a statement of the action taken or contemplated, and any assistance needed to resolve the situation.

M. CHANGES IN KEY POSITIONS AND PERSONNEL. Any revision to key positions and personnel identified in the application for this award require prior, written approval from the U.S. Forest Service. All technical positions are considered Key Personnel by the U.S. Forest Service. Failure on the part of Gila County to obtain prior, written approval when required may result in the disallowance of costs.

N. FREEDOM OF INFORMATION ACT (FOIA). Public access to grant or agreement records shall not be limited, except when such records must be kept confidential and would have been exempted from disclosure pursuant to "Freedom of Information" regulations (5 U.S.C. 552).

O. PUBLIC NOTICES. It is the U.S. Forest Service's policy to inform the public as fully as possible of its programs and activities. Gila County is/are encouraged to give public notice of the receipt of this instrument and, from time to time, to announce progress and accomplishments. Press releases or other public notices should include a statement substantially as follows:

> The Apache-Sitgreaves National Forest of the U.S. Forest Service, Department of Agriculture, and the Eastern Arizona Counties, Rural Advisory Committee (RAC), under the Secure Rural Schools and Community Self-determination Act of2000…."
>
> Gila County may call on the U.S. Forest Service's Office of Communication for advice regarding public notices. Gila County is/are requested to provide copies of notices or announcements to the U.S. Forest Service Program Manager and to the U.S. Forest Service's Office of Communications as far in advance of release as possible.

P. FUNDING EQUIPMENT. Federal funding under this instrument is not available for reimbursement of Gila County's purchase of Equipment is defined as having a fair market value of $5,000 or more per unit and a useful life of over one year. Supplies are those items that are not equipment.

Q. TERMINATION BY MUTUAL AGREEMENT. This award may be terminated, in whole or part, as follows:

- When the U.S. Forest Service and Gila County agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated.

- By 30 days written notification by Gila County to the U.S. Forest Service setting forth the reasons for termination, effective date, and in the case of partial termination, the portion to be terminated.

If, in the case of a partial termination, the U.S. Forest Service determines that the remaining portion of the award will not accomplish the purposes for which the award

was made, the U.S. Forest Service may terminate the award in its entirety.

Upon termination of an award, Gila County shall not incur any new obligations for the terminated portion of the award after the effective date, and shall cancel as many outstanding obligations as possible. The U.S. Forest Service shall allow full credit to Gila County for the United States Federal share of the non-cancelable obligations properly incurred by Gila County up to the effective date of the termination. Excess funds shall be refunded within 60 days after the effective date of termination.

R. DISPUTES.

1. Any dispute under this award shall be decided by the U.S. Forest Serive Program Manager. The Program Manager shall furnish Gila County a written copy of the decision.

2. Decisions of the U.S Forest Service Program Managerl shall be final unless, within 30 days of receipt of the decision of the Program Manager, Gila County appeal(s) the decision to the U.S. Forest Service's Director, Acquisition Management (AQM). Any appeal made under this provision shall be in writing and addressed to the Director, AQM, USDA, Forest Service, Washington, DC 20024. A copy of the appeal shall be concurrently furnished to the Program Manager.

3. In order to facilitate review on the record by the Director, AQM, Gila County shall be given an opportunity to submit written evidence in support of its appeal. No hearing will be provided.

S. DEBARMENT AND SUSPENSION. Gila County shall immediately inform the U.S. Forest Service if they or any of their principals are presently excluded, debarred, or suspended from entering into covered transactions with the federal government according to the terms of 2 CFR Part 180. Additionally, should Gila County or any of their principals receive a transmittal letter or other official federal notice of debarment or suspension, then they shall notify the U.S. Forest Service without undue delay. This applies whether the exclusion, debarment, or suspension is voluntary or involuntary.

T. CENTRAL CONTRACTOR REGISTRATION AND UNIVERSIAL IDENTIFIER REQUIREMENTS.

1. Requirement for Central Contractor Registration (CCR)
Unless you are exempted from this requirement under 2 CFR 25.110, you as the recipient must maintain the currency of your information in the CCR until you submit the final financial report required under this award or receive the final payment, whichever is later. This requires that you review and update the information at least annually after the initial registration, and more frequently if required by changes in your information or another award term.

2. Requirement for Data Universal Numbering System (DUNS) Numbers
If you are authorized to make subawards under this award, you:

a. Must notify potential subrecipients that no entity (*see* definition in paragraph C of this award term) may receive a subaward from you unless the entity has provided its DUNS number to you.
b. May not make a subaward to an entity unless the entity has provided its DUNS number to you.

3. *Definitions*

For purposes of this award term:

a. *Central Contractor Registration (CCR)* means the Federal repository into which an entity must provide information required for the conduct of business as a recipient. Additional information about registration procedures may be found at the CCR Internet site (currently at *http://www.ccr.gov*).
b. *Data Universal Numbering System (DUNS) number* means the nine-digit number established and assigned by Dun and Bradstreet, Inc. (D&B) to uniquely identify business entities. A DUNS number may be obtained from D&B by telephone (currently 866–705–5711) or the Internet (currently at *http://fedgov.dnb.com/webform*).
c. *Entity,* as it is used in this award term, means all of the following, as defined at 2 CFR part 25, subpart C:
    i. A Governmental organization, which is a State, local government, or Indian Tribe;
    ii. A foreign public entity;
    iii. A domestic or foreign nonprofit organization;
    iv. A domestic or foreign for-profit organization; and
    v. A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.
4. *Subaward:*
    i. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.
    ii. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, *see* Sec. ll.210 of the attachment to OMB Circular A–133, ''Audits of States, Local Governments, and Non-Profit Organizations'').
    iii. A subaward may be provided through any legal agreement, including an agreement that you consider a contract.
5. *Subrecipient* means an entity that:
    a. Receives a subaward from you under this award; and
    b. Is accountable to you for the use of the Federal funds provided by the subaward.

[END OF PROVISION]

ATTACHMENT B: 2 CFR PART 170

Appendix A to Part 170—Award Term

I. Reporting Subawards and Executive Compensation.

a. *Reporting of first-tier subawards.*

1. *Applicability.* Unless you are exempt as provided in paragraph d. of this award term, you must report each action that obligates $25,000 or more in Federal funds that does not include Recovery funds (as defined in section 1512(a)(2) of the American Recovery and Reinvestment Act of 2009, Pub. L. 111–5) for a subaward to an entity (see definitions in paragraph e. of this award term).
2. *Where and when to report.*
   i. You must report each obligating action described in paragraph a.1. of this award term to *http://www.fsrs.gov.*
   ii. For subaward information, report no later than the end of the month following the month in which the obligation was made. (For example, if the obligation was made on November 7, 2010, the obligation must be reported by no later than December 31, 2010.)
3. *What to report.* You must report the information about each obligating action that the submission instructions posted at *http://www.fsrs.gov specify.*

b. *Reporting Total Compensation of Recipient Executives.*

1. *Applicability and what to report.* You must report total compensation for each of your five most highly compensated executives for the preceding completed fiscal year, if—
   i. the total Federal funding authorized to date under this award is $25,000 or more;
   ii. in the preceding fiscal year, you received—
      (A) 80 percent or more of your annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
      (B) $25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
   iii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at *http://www.sec.gov/answers/execomp.htm.*)
2. *Where and when to report.* You must report executive total compensation described in paragraph b.1. of this award term:
   i. As part of your registration profile at *http://www.ccr.gov.*
   ii. By the end of the month following the month in which this award is made, and annually thereafter.

c. *Reporting of Total Compensation of Subrecipient Executives.*

1. *Applicability and what to report.* Unless you are exempt as provided in paragraph d. of this award term, for each first-tier subrecipient under this award, you shall report the names and total compensation of each of the subrecipient's five most highly compensated executives for the subrecipient's preceding completed fiscal year, if—
   i. in the subrecipient's preceding fiscal year, the subrecipient received—
      (A) 80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
      (B) $25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal financial assistance subject to the Transparency Act (and subawards); and
   ii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at *http://www.sec.gov/answers/execomp.htm.*)
2. *Where and when to report.* You must report subrecipient executive total compensation described in paragraph c.1. of this award term:
   i. To the recipient.
   ii. By the end of the month following the month during which you make the subaward. For example, if a subaward is obligated on any date during the month of October of a given year (*i.e.,* between October 1 and 31), you must report any required compensation information of the subrecipient by November 30 of that year.

d. *Exemptions* If, in the previous tax year, you had gross income, from all sources, under $300,000, you are exempt from the requirements to report:

1. Subawards, and
2. The total compensation of the five most highly compensated executives of any subrecipient.

e. *Definitions.* For purposes of this award term:

1. *Entity* means all of the following, as defined in 2 CFR part 25:
   i. A Governmental organization, which is a State, local government, or Indian tribe;
   ii. A foreign public entity;
   iii. A domestic or foreign nonprofit organization;
   iv. A domestic or foreign for-profit organization;
   v. A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.
2. *Executive* means officers, managing partners, or any other employees in management positions.
3. *Subaward:*

i. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.
ii. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see Sec. ll .210 of the attachment to OMB Circular A–133, ''Audits of States, Local Governments, and Non-Profit Organizations'').
iii. A subaward may be provided through any legal agreement, including an agreement that you or a subrecipient considers a contract.

4. *Subrecipient* means an entity that:
   i. Receives a subaward from you (the recipient) under this award; and
   ii. Is accountable to you for the use of the Federal funds provided by the subaward.
5. *Total compensation* means the cash and noncash dollar value earned by the executive during the recipient's or subrecipient's preceding fiscal year and includes the following (for more information see 17 CFR 229.402(c)(2)):
   i. *Salary and bonus.*
   ii. *Awards of stock, stock options, and stock appreciation rights.* Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.
   iii. *Earnings for services under non-equity incentive plans.* This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.
   iv. *Change in pension value.* This is the change in present value of defined benefit and actuarial pension plans.
   v. *Above-market earnings on deferred compensation which is not tax-qualified.* vi. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds $10,000.

END OF ATTACHMENTB: 2 CFR PART 170