

The State of New Hampshire
Department of Environmental Services

Thomas S. Burack, Commissioner

*Celebrating 25 Years of Protecting
New Hampshire's Environment*



December 11, 2012

Her Excellency, Governor Margaret Wood Hassan
and The Honorable Council
State House
Concord, NH 03301

REQUESTED ACTION

Authorize the Department of Environmental Services to enter into a Memorandum of Agreement with the University of New Hampshire, Sponsored Programs Administration (UNH), (VC #177867-B046) Durham, NH in the amount of \$160,000 to carry out activities to implement portions of the Piscataqua Region Estuaries Partnership Management Plan, effective upon Governor and Council approval through December 31, 2013. 100% Other Funds.

EXPLANATION

The Piscataqua Region Estuaries Partnership (PREP) is an effort involving federal, state, and local government, non-governmental organizations, businesses, and the public to improve the environmental quality of the State's estuaries through implementation of its Management Plan. PREP is part of the National Estuary Program, funded with monies from and approved by the U.S. Environmental Protection Agency (EPA). The University of New Hampshire, which received an EPA grant for PREP, is providing funds to the Department of Environmental Services (DES) to conduct activities to assist PREP in implementing specific actions outlined in its Management Plan, Monitoring Plan, and annual work plan. The Period of Performance of the Agreement is January 1, 2013 to December 31, 2013; however, the Agreement will only be effective starting upon Governor and Council approval.

DES will conduct a variety of activities largely focused on eliminating pollution to improve water quality, enhancing the use and productivity of shellfish resources, and monitoring the health of the estuaries. The total projected costs are budgeted at \$160,000.00. The University of New Hampshire will contribute \$60,000 through this agreement. These funds were approved in the fiscal year 2012-2013 operation budget in account 03-44-44-442010-1514. DES will contribute up to \$100,000.00 in matching funds through its funding of the DES Shellfish Program (Account 03-44-44-442010-1523).

We respectfully request your approval.

Thomas S. Burack, Commissioner

www.des.nh.gov

29 Hazen Drive • PO Box 95 • Concord, NH 03302-0095
(603) 271-3503 • TDD Access: Relay NH 1-800-735-2964

Agreement No. 13-038

This agreement is entered into by and between the University of New Hampshire ("University"), and the New Hampshire Department of Environmental Services ("Subcontractor").

RECITALS

University is the recipient of Grant No. CE-99171117 (CFDA No. 66.456) ("Prime Agreement") from the Environmental Protection Agency ("Federal Awarding Agency") (a.k.a. "Government").

The Prime Agreement provides for collaborative effort by Subcontractor to be implemented through appropriate contractual arrangements.

Subcontractor agrees to participate in the manner, and for the consideration, described in this document.

NOW THEREFORE, the parties agree to the following terms:

SPECIAL PROVISIONS

Article 1 - Statement of Work

The Subcontractor shall, as an independent contractor, provide all labor, materials, equipment and facilities necessary to accomplish the work required under this Agreement, as described in the Statement of Work incorporated into this Agreement and attached to this document as Exhibit I.

The Subcontractor represents that all work and services it provides under this Agreement will conform to high professional standards in the field.

Article 2 - Period of Performance

The period of performance for this Agreement is from January 1, 2013 through December 31, 2013. Expenditures incurred prior to the beginning date or subsequent to the end date are not allowable costs.

Article 3 - Key Personnel

The Subcontractor's project director, Phil Trowbridge, is considered Key Personnel and may not be replaced without prior University Approval.

Article 4 - Cost & Limitation of Obligation

The total estimated cost to University for the performance of this work must not exceed \$60,000. Subcontractor's budget is incorporated into this Agreement and attached to this document as Exhibit II.

Total funds in the amount of \$60,000 have been allotted and are available for payment of allowable costs incurred during the Period of Performance, as stated in **Article 2 – Period of Performance**. University will not reimburse Subcontractor for costs exceeding the amount specified in this paragraph.

Article 5 - Allowable Costs

For the performance of the tasks described in Article 1 of this Agreement, University will pay those of Subcontractor's costs that are determined to be allowable in accordance with:

A) The cost principles applicable to Subcontractor's type of organization:

- OMB Circular A-21: Institutions of higher education
- OMB Circular A-87: State, Local and Federally Recognized Indian Tribal Governments
- OMB Circular A-122: Nonprofit organizations
- 45 CFR 74, Appendix E: Hospitals
- 48 CFR Subpart 31.2: For-Profit (commercial) organizations

Fringe benefits and indirect costs will be reimbursed in accordance with Subcontractor's most recent negotiated rate agreement and in accordance with Subcontractor's institutional policies. Subcontractor shall provide University one copy of the most recent rate agreement memorandum it has negotiated with its cognizant Federal agency.

B) The budget included in this document as Exhibit II.

C) The terms of this Agreement.

Article 6 - Payment

Subcontractor may submit invoices to University at least quarterly but not more frequently than monthly. Invoices must show the period for which reimbursement is being requested and must itemize the costs by budget category as shown on the budget, Exhibit II. The invoice must show "current" costs, "cumulative" costs, cost sharing, Subaward number, and certification as to truth and accuracy of invoice. University will

pay properly submitted invoices within 30 days of receipt. Subcontractor shall submit its final invoice, which must be marked "Final," no later than 60 days after the ending date of this Agreement as specified in **Article 2 - Period of Performance**. The final invoice will be used as Subcontractor's final report of expenditures.

Subcontractor shall mail the invoices to:

Theresa Hamer
Academic Affairs BSC
11 Garrison Avenue
Stoke Hall, Room 106
Durham, NH 03824
603-862-0157
theresa.hamer@unh.edu

Upon request by University, Subcontractor shall refund any payments received for what are, as a result of a Federal or University audit, determined to be unallowable expenditures. Subcontractor, however, has the right to establish allowability of any such expenditures. University may withhold payment of the final invoice pending receipt of the Final Report, as referred to in **Article 10 - Reports**, by University's Project Director and/or resolution of any audit findings.

Article 7 - Rebudgeting

The Subcontractor is authorized to rebudget funds in accordance with the General Provisions incorporated into this Agreement and attached to this document as Exhibit III. University approval is required for rebudgeting that requires prior approval under the terms of the General Provisions. All requests for rebudgeting approval must be directed to the Authorized University Representative identified in **Article 16 - Notices**.

Article 8 - Equipment: Vesting & Reporting

The Subcontractor may retain title to all equipment purchased under this Agreement, subject to the conditions of the Prime Agreement attached to this document as Exhibit III. The Subcontractor shall, within 30 days of the expiration of this Agreement, submit a final report of equipment purchased under this Agreement (including negative reports) to the Authorized University Representative identified in **Article 16 - Notices**.

Article 9 - Records & Audit

Subcontractor agrees to comply with the requirements of OMB Circular A-133 and further agrees to provide University with copies of any independent auditors' reports which present instances of non-compliance with federal laws and regulations which bear directly on the performance or administration of this Agreement. In cases of such non-compliance, Subcontractor shall also provide University copies of responses to auditors' reports and plans for corrective actions. The Subcontractor shall cooperate with

University to ensure that corrective actions address instances of non-compliance to the satisfaction of University.

Subcontractor may not receive payment for work done under this Agreement prior to providing notice of compliance with OMB Circular A-133. Such notice will be provided to the Authorized University Representative identified in **Article 16 - Notices** prior to the submission of any invoices and yearly thereafter for the duration of the Period of Performance.

Subcontractor shall maintain adequate financial records, in accordance with generally accepted accounting practices, to clearly identify expenses of the Agreement, to describe the nature of each expense and to establish relatedness to the Agreement. All records of this Agreement must be available for inspection by representatives of University and/or the Federal Government at the regular place of business of Subcontractor during normal business hours. All records of this Agreement must be retained for a period of three years with the following qualifications:

- A. The retention period starts from the date of FINAL PAYMENT made to Subcontractor by University under this Agreement.
- B. Records related to any audit initiated prior to the expiration of the three-year period must be retained until the audit findings involving the records have been resolved.

Article 10 - Reports

University's project director is entitled to request submission of progress reports on a schedule agreeable to Subcontractor's project director.

Article 11 - Publication & Copyright

Subject to the provisions of the Prime Agreement, publication of the results obtained from work funded under this Agreement is encouraged and Subcontractor may copyright material that is developed by its staff in the course of or under this Agreement. The Subcontractor agrees to grant to the Federal Government, and others acting on its behalf, a royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use the material developed under this agreement. The Subcontractor also grants University a royalty free, non-exclusive, and irrevocable license to use any data, copyrighted material (including computer programs) or know-how developed under this Agreement for the purpose of allowing University to meet its reporting/deliverables obligations under the Prime Agreement. All publications must cite the source of support and indicate that the findings, opinions and recommendations they express therein are those of the author and not necessarily those of University or of the Federal Awarding Agency.

Article 12 - Inventions

Subject to the provisions of the Prime Agreement, rights of ownership and disposition of inventions made under this Agreement will be governed in accordance with 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts, and Cooperative Agreements", which is incorporated in this Agreement by reference to the same extent as if provided in full text.

Article 13 - Termination

University is entitled to terminate this Agreement, upon written notification to the Subcontractor, for convenience of either University or Subcontractor or because of Subcontractor's default or failure to:

- Accomplish the work required under this Agreement within the time specified as the Period of Performance or any extension of the Period of Performance.
- Make progress, so as to endanger University's performance of the Prime Agreement.
- Correct any breach of this Agreement within a reasonable time after having been advised of such breach.

In the event of termination, Subcontractor will be reimbursed for allowable costs and non-cancelable obligations incurred prior to the date of notice of termination.

Termination of this Agreement for any reason will not affect the rights and obligations of either party accrued prior to the termination of this Agreement, including rights and remedies provided by law for default or failure to perform.

Article 14 - Disputes

Any dispute arising under this Agreement which cannot be resolved by mutual consent of the parties to this Agreement may be settled by mediation, arbitration at the parties' mutual agreement, or other appropriate legal proceedings. Pending the resolution of any such proceedings, Subcontractor shall, at University's discretion, proceed diligently with the performance of this Agreement.

Article 15 - Hold Harmless

Each party to this Agreement assumes all risk of personal injury and property damage attributable to the negligent acts or omissions of its personnel.

Article 16 - Notices

Communications concerning Subcontractor's performance under this Agreement will be directed to University's project director at the following address:

Rachel Rouillard
Piscataqua Region Estuaries Partnership
131 Main Street
Nesmith Hall
Durham, NH 03824
603-862-3948
rachel.rouillard@unh.edu

Communications concerning contractual and administrative aspects of this Agreement will be directed to University's Grant & Contract Administrator at the following address:

Susan Sosa
Sr. Grant & Contract Administrator
Sponsored Programs Administration
51 College Road, Service Building
Durham, NH 03824
603-862-4848
susan.sosa@unh.edu

Article 17 - Use of Name

Neither Subcontractor nor University may make use of this Agreement, or use the other's name or that of any member of the other's staff for publicity or advertising purposes without prior written approval of the other party.

Article 18 - Certifications

Debarment and Suspension (E.O.s 12549 and 12689) -- The Subcontractor certifies that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. Where the Subcontractor is unable to certify to this statement, it shall attach an explanation to this Agreement, and, at University's option, University may void this Agreement. Subcontractor shall promptly notify University if it or its principals becomes debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

Equal Employment Opportunity -- The Subcontractor must comply with E.O. 11246, "Equal Employment Opportunity," as amended by E.O. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

(Agreements in excess of \$100,000)

Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended – The Subcontractor shall comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.).

(Agreements of \$100,000 or more)

Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) – The Subcontractor certifies, to their knowledge and belief, that:

- No Federal appropriated funds have been paid or will be paid by or on behalf of Subcontractor, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352.
- If any funds other than Federal appropriated funds have been paid or will be paid by or on behalf of Subcontractor, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352, Subcontractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- Subcontractor shall require that the language of this certification be included in the award documents of all subcontracts at all tiers and that all subcontractors shall certify and disclose accordingly.

(When Prime Agreement does not contain regulations governing the use of human and animal subjects)

Human Subjects and Animal Welfare - Subcontractor assures that adequate safeguards will be taken whenever using vertebrate animals or human subjects in research or training projects, and that an institutional review committee composed of sufficient members with varying backgrounds to assure complete and adequate review of projects involving the use of human or animal subjects has reviewed and approved the projects. Subcontractor shall abide by all applicable regulations of the U.S. Department of Health and Human Services and the U.S. Department of Agriculture regarding the use of human or animal subjects and comply with state and local laws.

(For construction or repair agreements in excess of \$2000)

Copeland "Anti-Kickback" Act (18 U.S.C. 874 and 40 U.S.C. 276c) – The Subcontractor shall comply with the Copeland "Anti-Kickback" Act (18 U.S.C. 874), as supplemented by Department of Labor regulations (29 CFR part 3, "Contractors and

Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States").

(When required by Federal legislation, for construction agreements over \$2000)

Davis-Bacon Act, as amended (40 U.S.C. 276a to a-7) - The Subcontractor shall comply with the Davis-Bacon Act (40 U.S.C. 276a to a-7) as supplemented by Department of Labor regulations (29 CFR part 5, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction").

(All construction agreements in excess of \$2000 and all other agreements in excess of \$2500 that involve the employment of mechanics or laborers) Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333) – The Subcontractor shall comply with Sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), as supplemented by Department of Labor regulations (29 CFR part 5).

Article 19 - General Provisions

All applicable requirements, regulations, provisions, terms and conditions of the Prime Agreement are included as Exhibit III to this document and are hereby adopted in full force and effect to the relationship between University and Subcontractor. References to Contractor or Recipient in Exhibit III will be taken to mean Subcontractor; references to the Government or Federal Awarding Agency in Exhibit III will be taken to mean Government/Federal Awarding Agency or University or both, as appropriate.

Article 20 - Assignment

Subcontractor shall not assign, delegate or otherwise transfer, either in whole or in part, any of its rights or obligations under this Agreement without the prior written approval of University.

Article 21 - Order of Precedence & Severability

In the event of conflict between the Special and General Provisions in this Agreement, the Special Provisions shall prevail over the General Provisions.

In the event that any part of this Agreement is held to be unenforceable or invalid in any court of competent jurisdiction, then said part must be deleted or modified, as necessary, to render the remainder of this Agreement valid and enforceable.

Article 22 - Entire Agreement

This Agreement is the entire agreement between Subcontractor and University regarding this collaborative effort and supersedes and replaces any previously existing

arrangements, oral or written; all changes herein must be made by written amendment and executed for the parties by their authorized officials.

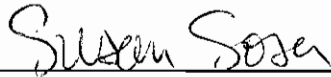
IN WITNESS WHEREOF, The University of New Hampshire and New Hampshire Department of Environmental Services have executed this Agreement.

By An Authorized Official of:

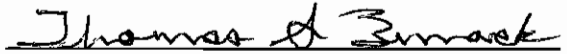
By An Authorized Official of:

UNIVERSITY OF NEW HAMPSHIRE

NEW HAMPSHIRE DEPARTMENT OF
ENVIRONMENTAL SERVICES



Susan Sosa
Sr. Grant & Contract Administrator
Sponsored Programs Administration



Name: Thomas S. Burack

Title: Commissioner

Sponsored Programs Administration

Date: 11/28/12

Date: 12/5/2012

APPROVED BY THE ATTORNEY GENERAL (FORM, SUBSTANCE AND EXECUTION)

Date: December 6, 2012



Evan J. Mulholland
Assistant Attorney General

EXHIBIT I
SUBAWARD AGREEMENT

Statement of Work

(see attached)

EXHIBIT I

PROJECT TITLE: 2013 PREP-DES Program Implementation

PROJECT PERIOD: January 1, 2013 – December 31, 2013

OBJECTIVE:

NH Department of Environmental Services (DES) will provide services to support implementation of the Piscataqua Region Estuaries Partnership's (PREP's) Management Plan and Monitoring Plan.

WORK TASKS

Task 1. MONITORING AND TECHNICAL PROGRAM ASSISTANCE

DES will employ technical staff to support monitoring and project implementation activities for PREP in 2013. For each of the subtasks, DES and PREP will identify specific deliverables that will be articulated in the annual PREP work plan. Work to complete these deliverables shall not exceed the total amount of hours paid to DES by PREP per this agreement.

DES will undertake the following subtasks:

A. Provide Technical Program Assistance – DES staff will analyze datasets related to water quality, shellfish quality, land use, wildlife abundance, and others as needed for PREP initiatives. DES staff may also manage PREP projects or grants and participate in the development of technical outreach products. (Time Estimate: 60 days)

PREP 2013.A.1 – Environmental Data Analyses

Specific tasks may include water quality studies, habitat studies, and research into emerging topics.

PREP 2013.A.2 – Geographic Information Systems Analyses

Specific tasks may include making maps, updating maps, maintaining data layers, geospatial analyses, and developing metadata.

PREP 2013.A.3 –Project or Grant Management

Specific tasks may include managing PREP projects, facilitating Requests for Proposals, administering PREP grants, and preparing or collaborating on grant proposals.

PREP 2013.A.4 – Development or Review of Technical Outreach Products

Specific tasks may include drafting fact sheets, reviewing fact sheets, and creating other outreach products.

B. Implement the PREP Monitoring Plan – The PREP Monitoring Plan contains a list of environmental indicators for tracking the effectiveness of PREP pollution prevention and

mitigation efforts. DES technical staff will coordinate the efforts of multiple monitoring programs in order to obtain the data needed to track the priority indicators. (Time Estimate: 70 days)

PREP 2013.B.1 - Conduct Annual Quality Assurance Audit of the PREP Monitoring Program

PREP 2013.B.2 - Prepare Coastal Monitoring Data for Indicators
Specific tasks may include obtaining, formatting, and quality assuring datasets from NH Fish and Game, UNH, Great Bay National Estuarine Research Reserve, and other PREP partners.

PREP 2013.B.3 - Prepare Work Scopes for PREP Monitoring Programs in 2013
Specific tasks may include developing or reviewing work scopes for monitoring programs funded by PREP for the 2013 field season.

PREP 2013.B.4 – Manage Gulfwatch Sampling in 2013
Specific tasks may include managing the collection of shellfish samples from PREP stations, preparing a sampling summary report, and coordinating shipment of samples to laboratory.

PREP 2013.B.5- Prepare Workplan for PREP Monitoring Programs in 2014
Specific tasks may include reviewing budgets and costs, identifying priorities, and managing stakeholder review of a proposed workplan.

PREP 2013.B.6 – Comprehensive Monitoring and Research Program for the Piscataqua Region Estuaries
Specific tasks may include participation in coordination meetings with monitoring partners, developing clear research questions, and developing detailed proposals or quality assurance project plans.

C. Assist with PREP Administration (Subtotal: 10 days)

PREP 2013.C.1 - Assist with EPA Reporting Requirements
Specific tasks may include input to various reports to EPA.

PREP 2013.C.2 - Participate in PREP Governance Committees and meetings
Specific tasks may include participation by DES technical staff at Management Committee, Technical Advisory Committee, and other PREP meetings.

Total DES Time Estimate: 140 days (28 FTE work weeks, 61% of 46 weeks/year)

PREP will provide funding not to exceed **\$60,000** for the DES technical staff to complete activities described above.

Task 2. DES SHELLFISH PROGRAM

DES will conduct its routine and emergency sampling programs consistent with the NSSP, test for paralytic shellfish poisoning, and conduct other surveys or assessments necessary to classify and maintain growing waters. State funds in the amount of up to **\$100,000** are available for this task and will be documented by DES as match for PREP. Implementation of this activity is relevant to the PREP Management Plan actions WR-2, WR-3.

ANALYTICAL METHODS

All laboratory analyses will be conducted according to applicable EPA methods. All analyses will meet EPA-required Quality Assurance/Quality Control standards.

DATA MANAGEMENT

DES will maintain all water quality data and field observations in digital and hard copy. Data records and management will be consistent with data management guidelines developed by PREP. DES will be responsible for ensuring that such guidelines are followed and that data collected as part of this Agreement are made available to any cooperating agency upon request.

REPORTING

Final reports must follow the format to be specified by PREP.

FUNDING CREDIT

Reports of activities or analyses conducted with funding through this Agreement shall cite funding from PREP consistent with guidelines provided by PREP.

MATCHING FUNDS

DES will document up to **\$100,000** in non-federal matching funds to support PREP Management Plan and Monitoring Plan implementation. The matching funds will be from the DES Shellfish Program (Account 1523) in SFY 2013 (up to \$50,000) and SFY 2014 (up to \$50,000). The actual match to be provided will be based on actual expenses. Match documentation shall accompany invoices submitted to PREP. In the event that actual costs are less than the amount budgeted for these activities, DES shall only be responsible for documenting the actual amount of funding for supporting activities.

EXHIBIT II
SUBAWARD AGREEMENT

Budget

(see attached)

EXHIBIT II - BUDGET

2013 PREP-DES Program Implementation

	Total Reimbursable Task 1: Monitoring and Technical Program Assistance	Total Matching* Task 2: DES Shellfish Program	Total
Salary	\$38,000	Allocation TBD	
Fringe	\$19,000	Allocation TBD	
Supplies	\$200	Allocation TBD	
Other: Lab Costs	\$0	Allocation TBD	
Indirect	\$2,800	Allocation TBD	
Total	\$60,000	\$100,000	\$160,000

* Matching funds will include a combination of salary, fringe, supplies, and/or lab costs.

**EXHIBIT III
SUBAWARD AGREEMENT**

Terms and Conditions

(see attached)

	U.S. ENVIRONMENTAL PROTECTION AGENCY Cooperative Agreement		GRANT NUMBER (FAIN): 99171117		DATE OF AWARD
			MODIFICATION NUMBER: 0		09/12/2012
			PROGRAM CODE: CE		MAILING DATE
			TYPE OF ACTION New		09/19/2012
PAYMENT METHOD: Advance		ACH# 5072			
RECIPIENT TYPE: State Institution of Higher Learning			Send Payment Request to: U.S. EPA Las Vegas Finance Center 4220 South Maryland Parkway, Building C, Room 503 Las Vegas, NV 89119 Tel: (702) 798-2406 Fax: (702) 798-2423 LVFC-grants@epa.gov		
RECIPIENT: University of New Hampshire 51 College Road Durham, NH 03824 EIN: 02-6000937			PAYEE: University of New Hampshire 51 College Road Durham, NH 03824		
PROJECT MANAGER Rachel Rouillard 51 College Road Durham, NH 03824 E-Mail: rachel.rouillard@unh.edu Phone: 603-862-3948		EPA PROJECT OFFICER Jean Brochi 5 Post Office Square, Suite 100, OEP06-1 Boston, MA 02109-3912 E-Mail: Brochi.Jean@epamail.epa.gov Phone: 617-918-1536		EPA GRANT SPECIALIST Brian Tocci Grants Management Office, OARM16-2 E-Mail: Tocci.Brian@epamail.epa.gov Phone: 617-918-1979	
PROJECT TITLE AND DESCRIPTION Piscataqua Region Estuaries Partnership Year 17 Workplan As directed by Section 320 of the Clean Water Act (CWA), this project under the National Estuary Program implements recommendations of the Piscataqua Region Estuaries Partnership (PREP) Comprehensive Conservation and Management Plan (CCMP) to restore and maintain the chemical, physical, and biological integrity of the estuary through tasks outlined in the annual workplan. Activities include assessing water quality trends, natural resources restoration, coordinating implementation of the CCMP by the states as well as federal and local agencies and monitoring the effectiveness of actions.					
BUDGET PERIOD 10/01/2012 - 12/31/2014		PROJECT PERIOD 10/01/2012 - 12/31/2014		TOTAL BUDGET PERIOD COST \$1,194,400.00	
				TOTAL PROJECT PERIOD COST \$1,194,400.00	
NOTICE OF AWARD					
Based on your application dated 06/08/2012, including all modifications and amendments, the United States acting by and through the US Environmental Protection Agency (EPA), hereby awards \$597,200. EPA agrees to cost-share 50.00% of all approved budget period costs incurred, up to and not exceeding total federal funding of \$597,200. 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 EPA New England 5 Post Office Square, Suite 100 Boston, MA 02109-3912			ORGANIZATION / ADDRESS U.S. EPA, Region 1 5 Post Office Square, Suite 100 Boston, MA 02109-3912		
THE UNITED STATES OF AMERICA BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY					
Digital signature applied by EPA Award Official for Michael Kenyon - Director, Office of Administration & Resource Management Fred Weeks - Award Official delegate					DATE 09/12/2012
AFFIRMATION OF AWARD					
BY AND ON BEHALF OF THE DESIGNATED RECIPIENT ORGANIZATION					
SIGNATURE 		TYPED NAME AND TITLE Susan Sosa, Senior Grant and Contract Administrator			DATE 09/19/12

RECEIVED

SEP 19 2012

SPONSORED PROGRAMS
ADMINISTRATION

Administrative Conditions

1. 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, 2012, the limit is \$596.00 per day and \$74.50 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).

2. 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, fair 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 New Hampshire Department of Environmental Services as follows:

New Hampshire	MBE	WBE
Blended Goals	1.45%	6.62%

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 New Hampshire Department of Environmental Services.

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 **annually** for the period ending September 30th for:

40 CFR Part 30 Recipients (Non-profits and Institutions of Higher Education); and
40 CFR Part 35 Subpart A and Subpart B Recipients.

The reports are due within 30 days of the end of the annual reporting period (October 30th). Reports should be sent to:

**U.S. Environmental Protection Agency – Region I
5 Post Office Square – Suite 100 (OARM16-2)**

Boston, MA 02109-3912

Attn: Mr. Larry Wells, Disadvantaged Business Utilization Program Manager

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.

3. DRUG-FREE WORKPLACE CERTIFICATION

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 2 CFR Part 1536 Subpart B. 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 2 CFR Part 1536 Subpart C.

The consequences for violating this condition are detailed under Title 2 CFR Part 1536 Subpart E. Recipients can access the Code of Federal Regulations (CFR) Title 2 Part 1536 at

<http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=701081165f70316effa8ebf67df73de0&rqn=div5&view=text&node=2:1.2.11.11.2&idno=2>.

4. CENTRAL CONTRACTOR REGISTRATION/SYSTEM FOR AWARD MANAGEMENT AND UNIVERSAL IDENTIFIER REQUIREMENTS

A. Requirement for Central Contractor Registration (CCR)/System for Award Management (SAM). 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 SAM 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.

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

1. 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.

2. May not make a subaward to an entity unless the entity has provided its DUNS number to you.

C. Definitions. For purposes of this award term:

1. Central Contractor Registration (CCR)/System for Award Management (SAM) 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 System for Award Management (SAM) Internet site <http://www.sam.gov>.

2. 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>).

3. Entity, as it is used in this award term, means all of the following, as defined at 2 CFR part 25, subpart C:

- a. A Governmental organization, which is a State, local government, or Indian tribe;
- b. A foreign public entity;
- c. A domestic or foreign nonprofit organization;
- d. A domestic or foreign for-profit organization; and
- e. A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.

4. Subaward:

- a. 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.
- b. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see Sec. --210 of the attachment to OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations").
- c. 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.

5. FISCAL YEAR 2012 FEDERAL TAX LIABILITY

This award is subject to the provisions contained in the Department of Interior, Environment, and Related Agencies Appropriations Act, 2012, HR 2055, Division E, Sections 433 and 434 (sections 433 and 434) regarding unpaid federal tax liabilities and federal felony convictions. Accordingly, by accepting this award the

recipient acknowledges that it: (1) is not subject to any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, and (2) has not been convicted (or had an officer or agent acting on its behalf convicted) of a felony criminal conviction under any Federal law within 24 months preceding the award, unless EPA has considered suspension or debarment of the corporation, or such officer or agent, based on these tax liabilities or convictions and determined that such action is not necessary to protect the Government's interests. If the recipient fails to comply with these provisions, EPA will annul this agreement and may recover any funds the recipient has expended in violation of sections 433 and 434.

6. GEOSPATIAL DATA STANDARDS

All geospatial data created must be consistent with Federal Geographic Data Committee (FGDC) endorsed standards. Information on these standards may be found at www.fgdc.gov.

7. 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.

8. INDIRECT COST TERM AND CONDITION FOR COLLEGES AND UNIVERSITIES

If the recipient does not have a previously established indirect cost rate, it agrees to prepare and submit its indirect cost rate proposal in accordance with OMB Circular A-21, "Cost Principles for Educational Institutions."

The recipient must send its proposal to its cognizant federal agency within ninety (90) days from the effective date of the award for this assistance agreement. If EPA is the cognizant federal agency, the recipient must send its indirect cost rate proposal within ninety (90) days from the effective date of the award to:

Regular Mail

Grants Administration Division
Office of Grants and Debarment
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW, MC 3903R
Washington, DC 20460
Attn: OGD Indirect Cost Rate Proposal Control Desk

Mail Courier (e.g. FedEx, UPS, etc.)

Grants Administration Division
Office of Grants and Debarment
U.S. Environmental Protection Agency
1300 Pennsylvania Avenue, NW, 5th floor
Washington, DC 20004
Attn: OGD Indirect Cost Rate Proposal Control Desk

Electronic submissions of proposals may be mailed to OGD_IndirectCost@epa.gov.

Recipients are entitled to reimbursement of indirect costs, subject to any statutory or regulatory administrative cost limitations, if they have a current rate agreement or have submitted an indirect cost rate proposal to their cognizant federal agency for review and approval. Recipients are responsible for maintaining an approved indirect cost rate. Recipients with differences between their provisional rates and final rates are not entitled to more than the award amount, without EPA approval.

Pursuant to 40 CFR 30.26, the recipient agrees to comply with the audit requirements prescribed in the Single Audit Act Amendments, and revised OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations."

9. 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.

10. LOBBYING - ALL RECIPIENTS

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.

LOBBYING - PART 30 RECIPIENTS

All contracts awarded by a recipient shall contain, when applicable, the anti-lobbying provision as stipulated in the Appendix at Title 40 CFR Part 30.

Pursuant to Section 18 of the Lobbying Disclosure Act, the recipient affirms that it is not a nonprofit organization described in Section 501(c)(4) of the Internal Revenue Code of 1986; or that it is a nonprofit organization described in Section 501(c)(4) of the Code but does not and will not engage in lobbying activities as defined in Section 3 of the Lobbying Disclosure Act.

11. 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.

12. RECYCLING TERM AND CONDITION (1)

In accordance with 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.

13. RECYCLING TERM AND CONDITION (2)

In accordance with 40 CFR 30.16, State and local institutions of higher education, hospitals, and non-profit organizations that receive direct Federal funds shall give preference in their procurement programs funded with Federal funds to the purchase of recycled products pursuant to EPA's guidelines.

14. 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 EPA approved budget. If the recipient incurs costs in anticipation of receiving additional funds from EPA, it does so at its own risk.

15. A-133 SINGLE AUDIT

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 the SF-SAC and a Single Audit Report Package. **The recipient MUST** submit the SF-SAC and a Single Audit Report Package, using the Federal Audit Clearinghouse's Internet Data Entry System. For complete information on how to accomplish the single audit submissions, you will need to visit the Federal Audit Clearinghouse Web site: <http://harvester.census.gov/fac/>

16. REPORTING SUB-AWARDS 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 www.fsrc.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 www.fsrc.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 Central Contractor Registration/System for Award Management profile available at www.sam.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:

- i. subawards,
and
- ii. 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. --.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.

17. NATIONAL TERM AND CONDITION FOR SUB-AWARDS

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.

18. SUSPENSION AND DEBARMENT

Recipients shall fully comply with Subpart C of 2 CFR Part 180 entitled, "Responsibilities of Participants Regarding Transactions Doing Business With Other Persons," as implemented and supplemented by 2 CFR Part 1532. Recipient is responsible for ensuring that any lower tier covered transaction, as described in Subpart B of 2 CFR Part 180, 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 required under 2 CFR 180.335 may result in the delay or negation of this assistance agreement, or pursuance of legal remedies,

including suspension and debarment.

Recipients may access suspension and debarment information at <http://www.sam.gov>. This system allows recipients to perform searches determining whether an entity or individual is excluded from receiving Federal assistance. This term and condition supersedes EPA Form 5700-49, "Certification Regarding Debarment, Suspension, and Other Responsibility Matters."

19. TRAFFICKING IN PERSONS

a. Provisions applicable to a recipient that is a private entity .

1. You as the recipient, your employees, subrecipients under this award, and subrecipients' employees may not—
 - i. Engage in severe forms of trafficking in persons during the period of time that the award is in effect;
 - ii. Procure a commercial sex act during the period of time that the award is in effect; or
 - iii. Use forced labor in the performance of the award or subawards under the award.
2. We as the Federal awarding agency may unilaterally terminate this award, without penalty, if you or a subrecipient that is a private entity —
 - i. Is determined to have violated a prohibition in paragraph a.1 of this award term; or
 - ii. 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—
 - A. Associated with performance under this award; or
 - B. 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 2 CFR 1532.

b. 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—

1. Is determined to have violated an applicable 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 an applicable 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 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 2 CFR 1532

c. Provisions applicable to any recipient .

1. 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.
2. Our right to terminate unilaterally that is described in paragraph a.2 or b of this section:
 - i. Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), and
 - ii. Is in addition to all other remedies for noncompliance that are available to us under this award.
3. You must include the requirements of paragraph a.1 of this award term in any subaward you make to a private entity.

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

1. "Employee" means either:

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

ii. 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.

2. "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.

3. "Private entity":

i. 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.

ii. Includes:

A. 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).

B. A for-profit organization.

4. "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).

20. TRAFFICKING VICTIMS PROTECTION ACT OF 2000

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.

21. UNLIQUIDATED OBLIGATIONS PART 30 - FEDERAL FINANCIAL REPORT

Pursuant to 40 CFR 30.52(a)(1) and 30.71(a), EPA recipients shall submit a final Federal Financial Report (SF-425) to EPA no later than 90 calendar days after the end of the project period. The form is available on the

internet at <http://www.epa.gov/ocfo/finservices/forms.htm> . All FFRs must be submitted to the Las Vegas Finance Center: US EPA, LVFC, PO Box 98515, Las Vegas, NV 89193, or by Fax to: 702-798-2423.

The LVFC will make adjustments, as necessary, to obligated funds after reviewing and accepting a final Federal Financial Report. Recipients will be notified and instructed by EPA if they must complete any additional forms for the closeout of the assistance agreement.

EPA may take enforcement actions in accordance with 40 CFR 30.62 if the recipient does not comply with this term and condition.

22. ADVANCE METHOD OF PAYMENT

The recipient must request payment on EPA 1901-F-00-104. This form should be faxed to the Las Vegas Finance Center. No payment will be made to the recipient until the executed assistance agreement is returned to the Grants Management Office.

The amount of the payment request will be based on the recipient's projected cash requirements, not to exceed those amounts necessary for immediate disbursement needs. Typically reimbursement of Federal Funds will be within 3 to 5 days of receipt of funds from EPA.

The recipient agrees to sign and return the Standard Form 3881, ACH Vendor/Miscellaneous Payment Enrollment Form, the Las Vegas Finance Center as indicated on the memorandum dated December 11, 2006 that was attached to your initial award with EPA. As required by Public Law 104-134; Debt Collection Improvement Act of 1996, Electronic Fund Transfer payments will not be processed until this form has been received by the Las Vegas Finance Center.

23. LEVERAGING

Leveraging: The recipient agrees to provide the proposed leveraged funding, including any voluntary cost-share contribution or overmatch, that is described in its proposal dated 8/3/2012. If the proposed leveraging does not materialize during the period of award performance, and the recipient does not provide a satisfactory explanation, the Agency may consider this factor in evaluating future proposals from the recipient. In addition, if the proposed leveraging does not materialize during the period of award performance then EPA may reconsider the legitimacy of the award; if EPA determines that the recipient knowingly or recklessly provided inaccurate information regarding the leveraged funding the recipient described in its proposal dated 8/3/2012 EPA may take action as authorized by 40 CFR Parts 30 or 31 and/or 2 CFR Part 180 as applicable.

Programmatic Conditions

Programmatic T&C (Note: CFR 31 is for state and local governments; CFR 30 is for NGOs and other eligible recipients)

1. In accordance with EPA regulations (40 C.F.R. 31.40 for State, local and tribal governments; 40 C.F.R. 30.51 for other recipients), the recipient agrees to submit annual progress reports to the EPA Project Officer within ninety days after the yearly annual anniversary of the award if the project period exceeds one year. These reports shall cover work status, work progress, difficulties encountered, preliminary data results and a statement of activity anticipated during the subsequent reporting period, including a description of equipment, techniques, and materials to be used or evaluated. A discussion of expenditures along with a comparison of the percentage of the project completed to the project schedule and an explanation of significant discrepancies shall be included in the

report. The report shall also include any changes of key personnel concerned with the project.

In addition, the report shall include brief information on each of the following areas: 1) a comparison of actual accomplishments with the anticipated outputs/outcomes specified in the assistance agreement work plan; 2) reasons why anticipated outputs/outcomes were not met; and 3) other pertinent information, including, when appropriate, analysis and explanation of cost overruns or high unit costs. The recipient agrees that it will notify EPA of problems, delays, or adverse conditions which materially impair the ability to meet the outputs/outcomes specified in the assistance agreement work plan.

2. The Piscataqua Region Estuaries Partnership (PREP) National Estuary Program (NEP) will submit annual Government Performance and Results Act (GPRA) reporting information to the U.S. Environmental Protection Agency as specified in the annual program funding guidance. As a requirement of this agreement, the recipient is required to provide information on the GPRA performance measures to the U.S. Environmental Protection Agency by the date stipulated in the annual funding guidance.

3. The U.S. Environmental Protection Agency will provide programmatic oversight and review and potential comment on reports related to environmental results, habitat, environmental indicators, and leveraged funds. EPA participates in the Management Conference of the Piscataqua Region Estuaries Partnership (PREP). The Management Conference agrees upon the tasks in the annual work plan and assists with program efforts, when appropriate.

4. The U.S. Environmental Protection Agency will participate in the revision and/or implementation of the PREP Comprehensive Conservation and Management Plan (CCMP).

5. Funds in the agreement may be used for outreach support. These funds are to: (1) cover travel for the NEP Program Office, Management Conference members, or other associated stakeholders to appropriate national and regional conferences, workshops, or meetings, (2) provide peer-to-peer technical assistance to other NEPs or neighboring communities, and (3) bring in staff or stakeholders from other NEPs or watershed programs to assist a NEP. PREP is required to attend all NEP national and regional meetings convened by EPA unless unforeseen circumstances prevent PREP from meeting this requirement.

6. National Terms and Condition for Subawards

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.

7. Sub-awards have not yet been finalized and the need for additional Quality Assurance cannot be determined at this time.

The recipient will develop Quality Assurance Project Plans (QAPP), or equivalent documents defined by the QMP, for all applicable projects and tasks involving environmental data in accordance with the most current National and Regional requirement documents (http://www.epa.gov/quality/qa_docs.html and <http://epa.gov/ne/lab/qa/qualsys.html>, respectively). Other EPA guidance documents provided at these sites may be helpful in meeting the requirements. The term "environmental data" refers to any measurement or information that describe environmental processes, conditions, or location; ecological or health effects and consequences; or the performance of environmental technology. For EPA, environmental data include information collected directly from measurements, produced from models, and compiled from other sources such as data bases or the literature. The QAPP must be approved by EPA prior to any data gathering work or use, except under circumstances requiring immediate action to protect human health and the environment or operations conducted under police powers. Unless an alternate schedule was previously agreed upon, no later than 30 days prior to the scheduled commencement of data collection and/or data generation activities, the recipient will submit a Quality Assurance Project Plan to the following:

- EPA Project Officer (see page 1 of assistance agreement for name and address) and
- Regional Quality Assurance Manager (EQA)
U.S. Environmental Protection Agency
11 Technology Drive
North Chelmsford, MA 01863

For organizations having an EPA-approved Quality Management Plan (QMP), the recipient will submit an annual update letter to EPA documenting progress over the year and any changes to the QMP. Annual update letters will be sent every year for four years until the expiration of the QMP (fives years from initial EPA approval). Annual QA update letters will be sent to the EPA Project Officer and Regional Quality Assurance Manager on the anniversary of the approval of the QMP by the Regional QA Manager; or on another mutually agreeable schedule. In addition, for multi-year projects, the grantee shall confirm that the QAPP is current and accurate.

8. EPA may terminate the assistance agreement for failure to make sufficient progress so as to reasonably ensure completion of the project within the project period, including any extensions. EPA will measure sufficient progress by examining the performance required under the work plan in conjunction with the milestone schedule, the time remaining for performance within the project period, and/or the availability of funds necessary to complete the project. See Policy 11-01 at:

http://www.ogd/policy/final_grants_policy_issuance_11_03_state_grant_workplans.pdf

9. Federal Funding Accountability and Transparency Act (FFATA) Reporting Requirements for Sub-award and Executive Compensation.

Purpose: To describe new Federal reporting requirements for EPA assistance agreement recipients. If, during the preceding fiscal year, a prime recipient or sub-recipient (a "prime" recipient is the recipient of record, the entity to which the Federal government makes an award; a "sub-recipient" is a sub-awardee at any other level down from the prime recipient) **meets all three criteria** listed below, then for each sub-award of \$25,000 or

more that the recipient provides, the recipient must enter into the FFATA Subaward Reporting System (FSRS) the total compensation of its five most highly-paid executives:

- the recipient received 80% or more of its annual gross revenue in Federal procurement contracts and financial assistance, **and**
- the recipient received \$25,000,000 or more in annual gross revenues from Federal procurement contracts and financial assistance, **and**
- there are no regularly-filed, publicly-available reports depicting the total compensation of the recipient's five most highly-paid executives.

The policy is available at: www.epa.gov/ogd/ and at: <http://usaspending.gov/news>

10. In accordance with 40 CFR 30.36, EPA has the right to reproduce, publish, use and authorize others to use copyrighted works developed under this assistance agreement for Federal purposes.

11. Unless the event(s) are specified in the approved workplan, the recipient agrees to obtain prior approval from EPA for the use of grant funds for light refreshments and/or meals served at meetings, conferences, training workshops, and outreach activities (events). The recipient must send requests for approval to the EPA Project Officer and include:

- (1) An estimated budget and description for the light refreshments, meals, and/or beverages to be served at the event(s);
- (2) A description of the purpose, agenda, location, length and timing for the event.
- (3) An estimated number of participants in the event and a description of their roles.

Recipients may address questions about whether costs for light refreshments, and meals for events are allowable to the recipient's EPA Project Officer. However, the Agency Award Official or Grant Management Officer will make final determinations on allowability.

Note: U.S. General Services Administration regulations define light refreshments for morning, afternoon or evening breaks to include, but not be limited to, coffee, tea, milk, juice, soft drinks, donuts, bagels, fruit, pretzels, cookies, chips, or muffins. (41 CFR 301-74.11)