

# **Institutional Compliance Requirements**

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**DISCLAIMER**

The following list of Compliance Requirements is not exhaustive. These items represent areas of significant risk and/or areas that ISU is most often asked to provide assurance when applying for federal grants and contracts. Individual projects may incorporate regulations not listed here. It is the responsibility of the individuals directing projects and the appropriate offices within University administration to ensure all compliance requirements are being followed.

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## BACKGROUND

Most Federal grant applications require the official signing on behalf of the institution to certify that the factual statements made in the application are true and correct, and that the applicant make certifications including items such as Federal debt status, debarment and suspension, drugfree workplace, and lobbying activities. Willful submission of false information in the application and its supporting documents or in reports required under an ensuing award is a criminal offense. Civil penalties include significant economic penalties in the event this certification is signed and then intentional falsehoods are found to have been stated anywhere in the grant proposal. The same penalties apply to the willful inclusion of false information in reports submitted in connection with the award.

In order to assure the party(ies) signing on behalf of ISU that compliance requirements are being observed, at least once every two years, the **Office of Sponsored Programs** should coordinate a review of campus compliance with the certifications and inform the Chief Research Officer that the assurances and certifications may continue to be signed.

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## I. GENERAL INSTITUTIONAL REQUIREMENTS

### 1. Lobbying Restrictions and Reporting

**Summary:** Most Federal granting agencies have adopted the common rule called "New Restrictions on Lobbying," published in the Federal Register on February 26, 1990 (55 FR 6736). Applicants for both Federal contracts and Federal grants over \$100,000 must certify that no Federal funds were used to pay for lobbying activities. Any non-Federal funds so used, with certain exceptions, must be reported on "Standard Form LLL, Disclosure of Lobbying Activities" along with the application. In addition, [OMB Circular A-21](#) mandates that the costs of lobbying activities cannot be charged directly or indirectly to Federally-sponsored projects.

**Reference:** [FAR 52.203-11](#); Federal grant application forms (e.g., [NIH](#) and [NSF](#); OMB Circular A-21 Section 17, Executive Lobbying; Section 24, Lobbying; and Section K.2.b., Certificate of Indirect Costs. [See also A-21, Section J.1., Advertising and Public Relations Costs.]

**Guidance:** (a) The **Office of Contracts and Grants** should separately identify unallowable lobbying activity costs and exclude such costs from campus Federal indirect cost proposals and from expenditure reports on Federal awards. (b) The **Chief Research Officer** should enforce the University prohibition on the use of Federal funds in efforts to secure earmarking of Federal appropriations for non-competitive awards to the University. (c) The **Office of Sponsored Programs** should provide notification to Principal Investigators and other campus officials concerning Federal lobbying restrictions and reporting requirements.

## 2. Financial Conflict of Interest

**Summary:** Applicants for Federal financial assistance from some agencies (currently NSF and PHS) must certify that the campus has a written and enforced conflict of interest policy. If significant conflicts exist they will be managed and, as appropriate, the campus will make pertinent information available to the awarding agency. In addition, proposals for certain Federal consulting agreements may contain certificates with respect to organizational conflicts of interest.

**Reference:** [42 CFR Part 50 Subpart F](#); [45 CFR Part 94](#); NSF grant application terms; [SF424B-#3](#); and [IC 35-44-1-3](#).

**Guidance:** Implement the ISU "[Investigator Significant Financial Disclosure Policy](#)" (document in dropdown menu under Forms & Policies). At least annually, the **Office of Sponsored Programs** should review all funded investigators as well as investigators submitting to Federal Agencies to confirm that required annual disclosures have been completed and that the Federal Agencies are notified in cases when appropriate. If the certification on [SF424B-#3](#) is required, the **Office of Sponsored Programs** should solicit information from the Principal Investigator on whether he/she believes that performance of the service under a Federal contract may give the Principal Investigator an unfair advantage in competing for other government contracts, or that because of other activities or relationships the Principal Investigator is unable to render impartial advice or assistance to the government.

## 3. Scientific Misconduct

**Summary:** Scientific Misconduct (or Research Misconduct) means fabrication, falsification, or plagiarism in proposing, performing, or reviewing research or in reporting research results. It does not include honest error or differences of opinion. Both NSF ([Award and Administrative Guide, Chapter VII, Section C](#)) and PHS impose extensive procedural requirements on grantees for handling cases of alleged scientific misconduct, including, in the case of PHS, filing of an annual report in addition to certifications on each grant proposal.

**Reference:** [42 CFR 93.103](#); PHS grant application form; NSF [Award and Administrative Guide, Chapter VII, Section C](#)

**Guidance:** The Office of Sponsored Programs submits the annual report on misconduct on Form 6349 to the Office of Research Integrity. At least once every two years the **Office of Sponsored Programs** should review the [Institutional Policy](#) for conformance with [42 CFR 93](#) and confirm that misconduct inquiries and investigations (if any) were conducted in compliance with local guidelines. Principal Investigators should be informed of the importance of accuracy in the statement of work submitted with the proposal, and expected standards for the conduct of research. Principal Investigators also sign a "Program Director/Principal Investigator Assurance" as part of the Public Health Services Grant application agreeing to abide by the standards prescribed.

#### 4. Debarment and Suspension

**Summary:** Certify whether the offeror or applicant, or any of its principals, is currently debarred, suspended, proposed for debarment, or declared ineligible to receive Federal awards; whether within the past three years the offeror or applicant, or any of its principals, has been convicted of or had a civil judgment rendered against it for, or been indicted for, commission of fraud or certain criminal offenses; and whether the offeror or applicant has had any Federal award terminated for cause or default in the past three years. Require similar certifications in subcontracts over \$25,000.

**Reference:** [FAR 52.209-5](#); Federal grant application forms (e.g., [PHS](#) and [NSF](#))

**Guidance:** The Institutional "Routing Form for Proposals and Contracts" (maintained by the **Office of Sponsored Programs**) for any Federal grant application, or any Federal contract proposal over \$25,000, should verify that the Principal Investigator: (a) has not been debarred or otherwise declared ineligible to receive Federal awards; and (b) has not, within the previous three years, been charged with committing an action that may be a cause for debarment. Actions that may be cause for debarment include: (i) commission of fraud or a criminal offense in connection with obtaining or performing a public contract or subcontract; and (ii) commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property. The **Office of Contracts and Grants** should notify the Office of Sponsored Programs if at any time the Institution is notified that it is debarred or otherwise declared ineligible to receive Federal awards.

#### 5. Contingent Fees

**Summary:** In proposals for contracts over \$100,000, offerors must certify whether the offeror has employed or retained any person or company to solicit or obtain the contract, and, if so, whether that person has been promised a commission, percentage, or other fee contingent on the award of the contract.

**Reference:** [FAR 52.203-5](#)

**Guidance:** **Office of Sponsored Programs** should obtain relevant information from the Principal Investigator before completing this certification.

#### 6. Procurement Integrity

**Summary:** In proposals for contracts over \$100,000, the University should certify whether the offeror has any knowledge of a violation or possible violation of the "procurement integrity" sections of the Office of Federal Procurement Policy Act ([41 USC 423, Procurement Integrity](#)).

**Reference:** [41 USC 423, Procurement Integrity](#)

**Guidance:** When a contract in excess of \$100,000 is being negotiated, the **Office of Sponsored Programs** should verify that the offeror has not violated the "procurement integrity" sections of the Office of Federal Procurement Policy Act

## 7. Anti-Kickback Procedures

**Summary:** In proposals for contracts over \$100,000, Indiana State University should certify whether the offeror has used any money, fee, commission, credit, gift, gratuity, thing of value, or compensation of any kind which is provided, directly or indirectly, to any prime Contractor, prime Contractor employee, subcontractor, or subcontractor employee for the purpose of improperly obtaining or rewarding favorable treatment in connection with a prime contract or in connection with a subcontract relating to a prime contract.

**Reference:** [FAR 52.203-7](#)

**Guidance:** For any Federal contract proposal over \$100,000, the **Office of Sponsored Programs** should ask the Principal Investigator whether he/she has offered any gift, discussed any job offer, or solicited any proprietary or source selection information from a Federal official if that official is involved in awarding the contract to the University for which the proposal is submitted.

## 8. Federal Debt - Nondelinquency

**Summary:** Certify whether the applicant is delinquent on any Federal debt at the time of application.

**Reference:** Federal grant application forms (e.g., [PHS](#))

**Guidance:** The **Office of Contracts and Grants** should notify the **Office of Sponsored Programs** if it becomes aware of any disallowance of costs on Federal grants to the campus that have been settled in favor of the government but have not been paid and are not in the process of being paid.

## 9. Institutional, Managerial, Financial Capability

**Summary:** Certify that the applicant has the legal authority and the managerial and financial capability to conduct and complete the project; that it will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives; and that it will cause to be performed any required audits. In solicitations for individual contracts over \$500,000, complete the Certificate of Disclosure Statement Due Date for Cost Accounting Standards ([See 9903.202-9](#)).

**Reference:** [FAR 52.230-1](#)

**Guidance:** (Reviewed by the **Office of Contracts and Grants**) The University should comply with audit requirements mandated by [OMB Circular A-133](#), and maintain accounting and other business systems in accordance with the University policy and procedures. The University should implement any University-accepted auditor recommendations arising out of the campus A-133 audit dealing with internal controls.

## 10. Buy American Act

**Summary:** “Buy American Act” means title III of the Act entitled “An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes”, approved March 3, 1933 ([41 U.S.C. 10a et seq.](#)).

**Reference:** [41 U.S.C. 10a et seq.](#) and [FAR 25.1](#)

**Guidance:** The "Buy America Act" is often incorporated in contracts issued under FAR. The **Office of Sponsored Programs** will alert Principal Investigators when it is anticipated that Buy America requirements will be imposed. When contracts are received that incorporate Buy America requirements, the **Office of Contracts and Grants** will notify the **Principal Investigator** and **Purchasing and Central Receiving** that they must ensure that the requirements are being followed.

## 11. Fly America Act

**Summary:** The Fly America Act requires that under most circumstances, foreign air travel funded with Federal dollars be performed on U.S. flag air carriers.

**Reference:** [41 CFR 301-10.131-143](#)

**Guidance:** The recipients of federal assistance are required to observe the Fly America Act. The **Office of Sponsored Programs** will alert Principal Investigators when it is anticipated

that Fly America requirements will be imposed. When contracts are received that incorporate Fly America requirements, the **Office of Contracts and Grants** will notify the **Principal Investigator** to ensure that the requirements are being followed.

## 12. Minority, Woman, and Disadvantaged Business Enterprises

**Summary:** The policies of some Federal and State Agencies include requirements to assure that minority business enterprises (MBE), woman business enterprises (WBE), and disadvantaged business enterprises (DBE) are given the opportunity to participate in contract and procurement for supplies, construction, equipment and services under grants, contracts, and cooperative agreements.

**Reference:** [U.S. Environmental Protection Agency](#) and [Indiana Code 4-13-16.5-8](#) and [Indiana Department of Transportation \(DBE\)](#)

**Guidance:** As a part of Indiana State University's ongoing effort to provide opportunities to Minority, Woman, and Disadvantaged Business Enterprises, **Purchasing and Central Receiving** actively solicits bids from Minority, Woman, and Disadvantaged Business Enterprise vendors.

## 13. Patents - Notice of Government Licensee

**Summary:** Used only when the government is obligated to pay a royalty applicable to the proposed acquisition because of a license agreement between the government and the patent owner, and performance of the contract will involve payment of such royalties or license fees.

**Reference:** [FAR 52.227-7](#)

**Guidance:** If the funding agency notifies the offeror that the above situation is the case, the offeror must state whether it is the owner of or licensee under the patent.

## 14. Representation of Limited or Restricted Data Rights

**Summary:** Used to give the offeror a chance to identify any data or computer software to be furnished in the performance of the contract that the offeror does not want the Government to have unlimited rights in.

**Reference:** [FAR 52.227-15](#)

**Guidance:** After obtaining confirmation from the Principal Investigator, the **Office of Sponsored Programs** should check the appropriate box on the certification whether any of the data or computer software to be delivered under the contract will be delivered with limited or restricted rights, and identify any such data or software. If no notification is given to the government that any of the data or software to be delivered will be submitted with limited or restricted rights, then the government will obtain *unlimited* rights in any data or software delivered.

## II. RESEARCH SUBJECT PROTECTION

### 1. Human Research Subjects

**Summary:** Applicants for Federal financial assistance for work involving human subjects must certify that they will comply with applicable agency rules for protection of such subjects. Most Federal agencies have adopted the common rule called "Federal Policy for the Protection of Human Subjects," published in the Federal Register on June 18, 1991 (58 FR 28001). The Department of Health and Human Services' codification of this common rule is at [45 CFR 46](#). In addition, Federally-funded research protocols involving human subjects must be reviewed by a campus [Institutional Review Board \(IRB\)](#). The operating procedures and composition of an IRB must conform to the campus "Assurance of Compliance" as approved by DHHS.

**Reference:** [45 CFR 46](#).

**Guidance:** (a) All proposals involving the use of human subjects in research must be reviewed by the [IRB](#). (b) At least once every two years, the **IRB** should review the "[Indiana State University Policies and Procedures for the Review of Research Involving Human Subjects](#)" for conformance with 45 CFR 46.

### 2. Humane Care and Use of Vertebrate Laboratory Animals

**Summary:** Applicants for financial assistance for work involving live, vertebrate animals must certify that they will comply with all applicable State and Federal regulations. The principal Federal regulations are contained in Public Health Service *Policy on Humane Care and Use of Laboratory Animals*, which in effect requires that all research protocols involving such animals be reviewed by a campus [Institutional Animal Care and Use Committee](#) (IACUC) and that the institution use the [NIH Guide for the Care and Use of Laboratory Animals](#) as a basis for

developing and implementing an institutional animal care and use program. The operating procedures and composition of an IACUC must conform to the campus "Animal Welfare Assurance" as approved by the National Institutes of Health (NIH).

**Reference:** Grant application forms (e.g., [PHS](#)); [NIH Guide for the Care and Use of Laboratory Animals](#)

**Guidance:** (a) All proposals involving use of live, vertebrate animals must be reviewed by ISU's [IACUC](#). (b) At least once every two years, the **IACUC** should review relevant procedures for conformance with the [NIH Guide for the Care and Use of Laboratory Animals](#) (which refers to the Laboratory Animal Welfare Act of 1966) and the campus "Animal Welfare Assurance."

### 3. Endangered Species Act

**Summary:** Certify that the applicant will comply with environmental standards for the protection of endangered species under the Endangered Species Act of 1973, as amended ([16 USC Chapter 35, Sections 1531ff \[Pub. L. 93-205\]](#)).

**Reference:** [SF-424B, #11.h](#).

**Guidance:** The **Principal Investigator** is responsible for securing required permits and providing required reports if a research project will involve the import or export of endangered or threatened species.

### 4. Inclusion of Women and Minorities as Subjects in Clinical Research

**Summary:** NIH provides guidelines to ensure that all NIH-funded clinical research will be carried out in a manner sufficient to elicit information about individuals of both sexes/genders and diverse racial and ethnic groups and, particularly in NIH-defined Phase III clinical trials, to examine differential effects on such groups. Since a primary aim of research is to provide scientific evidence leading to a change in health policy or standard of care, it is imperative to determine whether the intervention or therapy being studied affects women or men or members of minority groups and their subpopulations differently.

**Reference:** [PHS 398, Part III, 2.1.3](#)

**Guidance:** The **Office of Sponsored Programs** is responsible for verifying that any NIH proposal involving human subjects includes women and minorities as subjects.

### 5. Inclusion of Children as Subjects in Clinical Research

**Summary:** The goal of this policy is to increase the participation of children in research so that adequate data will be developed to support the treatment modalities for disorders and conditions that affect adults and may also affect children. For the purposes of this NIH policy, studies involving human subjects include categories of research that would otherwise be exempted from the DHHS Policy for Protection of Human Research Subjects. These categories of research are exempted from the DHHS policy because they pose minimal risk to the participants, and not because the studies should not include children. Examples of such research include surveys, evaluation of educational interventions, and studies of existing data or specimens that should include children as participants. Nevertheless, the inclusion of children as participants in research must be in compliance with all applicable subparts of 45 CFR 46 as well as with other pertinent federal laws and regulations whether or not the research is otherwise exempted from 45 CFR 46.

**Reference:** [PHS 398, Part III, 2.1.5](#)

**Guidance:** The **Office of Sponsored Programs** is responsible for verifying that any NIH proposal involving human subjects includes children as subjects.

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## III. ENVIRONMENTAL CONCERNS

### 1. Radiological Materials Safety and Control

**Summary:** Indiana State University has a "Materials License" through the U.S. Nuclear Regulatory Commission for the use of nuclear material. Activities and requirements under the license are regulated by the U.S. Nuclear Regulatory Commission.

**Reference:** [10 CFR Part 30](#)

**Guidance:** The acquisition, use, and disposal of nuclear materials at ISU is managed by **Radiation Safety Officer** through the **Office of Environmental Safety**.

### 2. Hazardous Materials Management

**Summary:** The Environmental Protection Agency regulates the handling, storage, and disposal of hazardous materials at Indiana State University. The authority for the EPA regulations are found within the Resource Conservation and Recovery Act of 1976 (RCRA) and the Superfund Amendments and Reauthorization Act of 1986 (SARA). The goals of the RCRA are to protect human health and the environment from the potential hazards of waste disposal, to conserve

energy and natural resources, to reduce the amount of waste generated, and to ensure that wastes are managed in an environmentally sound manner. The purpose of the SARA is to encourage and support emergency planning efforts at the State and local levels and provide the public and local governments with information concerning potential chemical hazards present in their communities.

**Reference:** [EPA Hazardous Waste Management System 40 CFR 260](#), [EPA Identification and Listing of Hazardous Waste \(40 CFR 261\)](#), [EPA Standards Applicable to Generators of Hazardous Waste \(40 CFR 262\)](#)

**Guidance:** The **Office of Environmental Safety** has primary responsibility for compliance with the requirements of RCRA, SARA, and EPA. However, every individual at ISU that works with hazardous materials is responsible to ensure that they are handled, stored, and disposed of in a manner that is compliant with RCRA, SARA, and EPA requirements. Any questions concerning the use of hazardous materials should be directed to the **Office of Environmental Safety**.

### 3. Recombinant DNA Molecules Research

**Summary:** Certify that the applicant will comply with guidelines for research involving recombinant DNA molecules published by the National Institutes of Health (NIH).

**Reference:** [NIH Guidelines for Research Involving Recombinant DNA Molecules](#)

**Guidance:** (a) Any non-exempt research involving recombinant DNA molecules must be reviewed and approved by the ISU's Biosafety and Recombinant DNA Committee (b) At least once every two years, **ISU's Biosafety and Recombinant DNA Committee** should review relevant procedures for conformance with NIH guidelines.

### 4. Clean Air and Water Acts; Executive Order (E.O.) 11738

**Summary:** Certify that no facility to be used in the performance of the contract or grant is listed on the EPA List of Violating Facilities [now merged with the Federal Debarment List], and that the work performed will not violate State clean air implementation plans.

**Reference:** [E.O. #11738](#); [SF-424B, #11.f.](#); [SF-424B, #11.b.](#)

**Guidance:** **Facilities Management** and the **Office of Environmental Safety** are responsible for maintaining compliance. At least once every two years a review should be conducted to confirm on-going compliance. If the Office of Sponsored Programs or the Office of Grants and Contracts has reason to believe that a particular proposal is for work that may have a negative impact on underground sources of drinking water, Facilities Management should be notified.

## 5. Safe Drinking Water Act

**Summary:** Certify that the applicant will protect underground sources of drinking water pursuant to the Safe Drinking Water Act of 1974, as amended, ([42 USC 300f et seq. \[Pub. L. 93-523\]](#)).

**Reference:** [SF-424B, #11.g.](#)

**Guidance:** **Facilities Management** and the **Office of Environmental Safety** are responsible for maintaining compliance. At least once every two years a review should be conducted to confirm on-going compliance. If the **Office of Sponsored Programs** or the **Office of Contracts and Grants** has reason to believe that a particular proposal is for work that may have a negative impact on underground sources of drinking water, **Facilities Management** should be notified.

## 6. National Environmental Policy Act; E.O. 11514

**Summary:** Certify that the applicant will comply with environmental standards which may be prescribed pursuant to institution of environmental quality control measures under the National Environmental Policy Act of 1969 ([42 USC Chapter 55, \[Pub. L. 91-190\]](#)) and [Executive Order 11514](#). Compliance is also required with standards regarding [Wetlands E.O. 11990](#), and [Flood Plain Management E.O. 11988](#),

**Reference:** [SF-424B, #11.a, c, d](#)

**Guidance:** **Facilities Management** and the **Office of Environmental Safety** are responsible for maintaining compliance. At least once every two years a review should be conducted to confirm on-going compliance.

## 7. Historic Preservation Act; E.O. 11593

**Summary:** Certify that the applicant will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, ([E.O. 11593](#)) (identification and protection of historic properties), and the [Archaeological and Historic Preservation Act of 1974](#).

**Reference:** [SF-424B, #13](#)

**Guidance:** **Facilities Management** and the **Office of Environmental Safety** are responsible for maintaining compliance. At least once every two years a review should be conducted to confirm on-going compliance. If the **Office of Sponsored Programs** or the **Office of Contracts and**

**Grants** has reason to believe that a particular proposal is for work that may have a negative impact on Historic Properties, **Facilities Management** should be notified.

## 8. Select Agent Research

**Summary:** NIH requires certain processes for NIH awards for research involving infectious agents and select agents, including submissions, awards, monitoring and oversight. A chart provided by NIH titled “[Responsibilities of Organizations/Agencies for Monitoring and Oversight of NIH-Funded Research with Select Agents](#)” also clarifies the processes and responsibilities for investigations of laboratory accidents, research-related illnesses and potential Biosafety violations.

**Reference:** [PHS 398, Part III, 2.13](#)

**Guidance:** (a) Any non-exempt research involving select agents must be reviewed and approved by the ISU's Biosafety and Recombinant DNA Committee (b) At least once every two years, **ISU's Biosafety and Recombinant DNA Committee** should review relevant procedures for conformance with NIH guidelines.

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# IV. LABOR AND HUMAN RESOURCES

## 1. Drug-Free Workplace

**Summary:** Certify that the applicant will provide a drug-free workplace by notifying employees that unlawful drug use is prohibited and specifying what actions will be taken against employees for violations. Establish an on-going drug-free awareness program that includes employee notification and, as appropriate, rehabilitation. Comply with agency-specific regulations as applicable.

**Reference:** Federal grant application forms (e.g., [PHS](#)) and [Drug-Free Workplace Act of 1988](#)

**Guidance:** **Human Resources** should give all employees a copy of the University policy on substance abuse. Report drug-related convictions to the funding agency within 10 days of receiving notice of a conviction from the employee, and take appropriate corrective action or require such employees to participate satisfactorily in approved drug-abuse assistance or rehabilitation programs. For grant applications, identify the workplace(s) where the grant will be

substantially performed, either in the grant application or in a record kept in the grant file. The **Office of Sponsored Programs** should inform the granting agency if such workplace(s) change during the grant period.

## 2. Drug-Free Schools and Communities

**Summary:** The purpose of the Drug-Free Schools and Campuses Regulations is to implement section 22 of the Drug-Free Schools and Communities Act Amendments of 1989, which adds section 1213 to the Higher Education Act and section 5145 to the Drug-Free Schools and Communities Act. These amendments require that, as a condition of receiving funds or any other form of financial assistance under any Federal program, an institution of higher education (IHE), State educational agency (SEA), or local educational agency (LEA) must certify that it has adopted and implemented a drug prevention program.

**Reference:** Drug-Free Schools and Campuses Regulations ([34 CFR Part 86 Subpart B](#)).

**Guidance:** **Human Resources** should implement the University Policy on Substance Abuse, which includes annually giving each employee a copy of the policy and conducting biennial reviews of the campus substance abuse program.

## 3. Hatch Act

**Summary:** Certify that the applicant will comply with the provisions of the Hatch Act ([5 USC 1501-1508](#) and [5 USC 7324-7326](#)), which limit the political activities of grantee employees.

**Reference:** [SF-424B, #8](#)

**Guidance:** Because the Hatch Act does not apply to University employees, University Officers should routinely line out or mark as "not applicable" any references to this Act in certifications. Alternatively, the Hatch Act references may be considered self-deleting if the certification is prefaced with words to the effect that the applicant will comply with *applicable* provisions of the listed laws or regulations. As a last resort, if none of these three options is available, the funding agency should be notified that the Hatch Act is not applicable to University employees.

## 4. Wage and Hour Acts

**Summary:** Certify that the applicant will comply, as applicable, with the provisions of the [Davis-Bacon Act](#), the [Copeland Act](#), and the [Contract Work Hours and Safety Standards Act](#), regarding labor standards for Federally assisted construction subagreements.

**Reference:** [SF-424B, #9](#)

**Guidance:** (Oversight by **Human Resources, Purchasing and Central Receiving**, and **Facilities Management**) Federally-funded contracts over \$2000 for construction, alteration, or repair awarded by the campus should conform and contain, when applicable, provisions requiring the contractor and any of its subcontractors to pay prevailing wages and premium overtime, to make wage payments at least once per week, to keep adequate records of such payments, and to make certified copies of payroll records available for inspection. In addition, University personnel who manage Federally-funded construction projects should perform random checks to determine if the contractor is meeting the contract requirements.

## 5. Drug-Free Work Force

**Summary:** In proposals for certain DoD contracts, usually those involving access to classified information, the offeror must certify that it will institute a drug-free work force program that includes employee assistance, supervisory training, provision for self-referrals to treatment, and random drug testing.

**Reference:** [DFARS 252.223-7004](#)

**Guidance:** When a drug-free work force certification is required by the contract, an employee assistance program (administered by **Human Resources**) must be established and employees working under the contract in "sensitive positions" must participate in a drug testing program. Because drug testing of employees is controversial, this clause should not be accepted without careful planning and coordination with campus academic and staff personnel on the project to determine how the campus will comply with the requirements. It is believed that this clause currently applies to Scripps Institute of Oceanography ships and the DOE Laboratories. The **Office of Sponsored Programs** must determine if contracts or agreements contain Drug Free Work Force clauses and work with University administration to establish provisions to comply with the terms of the contracts and agreements.

## 6. Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970

**Summary:** This act establishes the National Institutes on Alcohol Abuse and Alcoholism to administer the programs and authorities per this act. The Institute is tasked with developing and conducting comprehensive health, education, training, research, and planning programs for the prevention and treatment of alcohol abuse and alcoholism and for the rehabilitation of alcohol abusers and alcoholics. Any grant awarded from the authorities of this act requires confidentiality of records.

**Reference:** [SF-424B, #6](#)

**Guidance:** At least once every two years, the **Office of Equal Opportunity** should confirm that the campus has compliant EEO and Affirmative Action plans.

## 7. Veteran's Employment Reporting Requirements

**Summary:** This portion of US Code ([38 USC 4212\(d\)](#)) states that each contractor with a federal contract over \$100,000 will report at least annually to the Secretary of Labor the number, job category, and hiring location of qualified covered veterans along with overall minimum and maximum numbers of employees.

**Reference:** ORCA

**Guidance:** At least once every two years, the **Office of Equal Opportunity** should confirm that the campus has compliant EEO and Affirmative Action plans.

## 8. Smoke-Free Workplace

**Summary:** The PHS strongly encourages all grant recipients to provide a smoke-free workplace and to promote the non-use of all tobacco products. In addition, Public Law 103-227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of a facility) in which regular or routine education, library, day care, health care, or early childhood development services are provided to children. This is consistent with the PHS mission to protect and advance the physical and mental health of the American people.

**Reference:** [PHS 398, Part III, 2.11](#)

**Guidance:** Per Indiana State University policy, the use of smoking tobacco products is prohibited on university-owned, operated, or leased property. The **Office of Sponsored Programs** should inform the granting agency if such workplace(s) change during the grant period.

## 9. Nondiscrimination/Affirmative Action

### a. Discrimination based on Race, Color, National Origin

**Summary:** Certify that the applicant will comply with [42 USC Chapter 21, Section 2000d, Title VI of the Civil Rights Act of 1964 \(Pub. L. 88-352\)](#) which prohibits discrimination in the provision of grant-supported services on the basis of race, color or national origin.

**Reference:** [SF-424B, #6.a.](#); grant application forms (e.g., [PHS](#)); [45 CFR 80](#)

**Guidance:** At least once every two years, the **Office of Equal Opportunity** should confirm that the campus has compliant EEO and Affirmative Action plans.

## **b. Equal Opportunity and Affirmative Action Compliance**

**Summary:** Certify that the offeror will comply with [Executive Order 11246, Equal Employment Opportunity](#).

**Reference:** [FAR 52.222-21, 22, 25, and 26](#), [Executive Order 11246, Equal Employment Opportunity](#).

**Guidance:** At least once every two years, the **Office of Equal Opportunity** should confirm that the campus has compliant EEO and Affirmative Action plans.

## **c. Affirmative Action for Special Disabled and Vietnam Era Veterans**

**Summary:** Vietnam Era Veterans Readjustment Assistance Act of 1972 (amended in 1974) requires employers who are government contractors to take affirmative action to hire and promote qualified disabled veterans and veterans of the Vietnam era.

**Reference:** [38 USC Chapter 42, Employment and Training of Veterans](#), [FAR 52.222-35](#)

**Guidance:** At least once every two years, the **Office of Equal Opportunity** should confirm that the campus has compliant EEO and Affirmative Action plans that includes special disabled and Vietnam era veterans.

## **d. Discrimination based on Sex or Blindness**

**Summary:** Certify that the applicant will comply with Title IX of the Education Amendments of 1972, as amended ([20 USC Chapter 38, Sections 1681-1683 and 1685-1686, Nondiscrimination on the Basis of Sex or Blindness](#)), which prohibits discrimination on the basis of sex or blindness.

**Reference:** [SF-424B, #6.b.](#); grant application forms (e.g., [PHS](#)); [45 CFR 86](#)

**Guidance:** At least once every two years, the **Office of Equal Opportunity** should confirm that the campus has compliant EEO and Affirmative Action plans.

## **e. Discrimination based on Handicap**

**Summary:** Certify that the offeror or applicant will comply with Section 504 of the Rehabilitation Act of 1973, as amended ([29 USC 794, Nondiscrimination under Federal Grants](#)

[and Programs](#)), which prohibits discrimination in the provision of grant-supported services on the basis of handicaps.

**Reference:** [SF-424B, #6.c.](#); grant application forms (e.g., [PHS](#)); [45 CFR 84](#); [FAR 52.222-36](#)

**Guidance:** At least once every two years, the **Office of Equal Opportunity** should confirm that the campus has compliant EEO and Affirmative Action plans.

#### **f. Discrimination based on Age**

**Summary:** Certify that the applicant will comply with the Age Discrimination Act of 1975, as amended ([42 USC Chapter 76](#)), which prohibits discrimination in the provision of grant-supported services on the basis of age.

**Reference:** [SF-424B, #6.d.](#); grant application forms (e.g., [PHS](#)); [45 CFR 91](#)

**Guidance:** At least once every two years, the **Office of Equal Opportunity** should confirm that the campus has compliant EEO and Affirmative Action plans.

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## **V. TYPE OF BUSINESS/PLACE OF PERFORMANCE (STANDARD RESPONSES)**

### **1. Insurance - Immunity from Tort Liability**

**Summary:** Certify whether the offeror is totally or partially immune from tort liability to third persons.

**Reference:** [FAR 52.228-7](#)

**Guidance:** Check the box on the certification that the offeror, as a State institution, is partially immune from tort liability.

## **2. Small Business Concern Representation**

**Summary:** Certify whether the offeror is a small business.

**Reference:** [FAR 52.219-1](#)

**Guidance:** Check the box on the certification that the offeror is not a small business concern.

## **3. Small Disadvantaged Business Concern Representation**

**Summary:** Certify whether the offeror is a small disadvantaged business.

**Reference:** [FAR 52.219-22](#)

**Guidance:** Check the box on the certification that the offeror is not a small disadvantaged business concern.

## **4. Women-Owned Business**

**Summary:** Certify whether the offeror is a women-owned business concern.

**Reference:** [FAR 52.204-5](#)

**Guidance:** Check the box on the certification that the offeror is not a women-owned business concern.

## **5. Walsh-Healey Public Contracts Act Representation**

**Summary:** Certify whether the offeror is a regular dealer in or manufacturer of the supplies offered.

**Reference:** [FAR 52.222-20](#)

**Guidance:** Check the boxes on the certification that the offeror is not a regular dealer in nor a manufacturer of supplies.

## 6. Place of Performance

**Summary:** Indicate whether, and if so where, the offeror intends to use one or more off-site facilities.

**Reference:** [FAR 52.215-6](#)

**Guidance:** As applicable, check on the certification whether in the performance of the contract the offeror intends to use one or more facilities located off-campus, and, if so, provide the off-campus addresses and, if not University-owned, the name of the facility owner.