

	<b>U.S. ENVIRONMENTAL PROTECTION AGENCY</b>  <b>Cooperative Agreement</b>		<b>GRANT NUMBER (FAIN):</b> 83561601 <b>MODIFICATION NUMBER:</b> 0 <b>PROGRAM CODE:</b> DE	<b>DATE OF AWARD</b> 03/26/2014
			<b>TYPE OF ACTION</b> New	<b>MAILING DATE</b> 04/02/2014
			<b>PAYMENT METHOD:</b> ACH	<b>ACH#</b> 90569
			<b>RECIPIENT TYPE:</b> Municipal	
<b>RECIPIENT:</b> City of Los Angeles - Harbor Dept Port Of Los Angeles 425 S Palos Verdes St., 5th Fl San Pedro, CA 90731-3309 <b>EIN:</b> 95-6000735		<b>PAYEE:</b> City of Los Angeles - Harbor Dept Port Of Los Angeles 425 S Palos Verdes St., 5th Fl San Pedro, CA 90731-3309		
<b>PROJECT MANAGER</b> Rene Spencer Port Of Los Angeles 425 S Palos Verdes St., 5th Fl San Pedro, CA 90731-3309 <b>E-Mail:</b> rspencer@portla.org <b>Phone:</b> 310-732-3950		<b>EPA PROJECT OFFICER</b> Faye Swift 1200 Pennsylvania Ave, NW, 6406J Washington, DC 20460 <b>E-Mail:</b> Swift.Faye@epamail.epa.gov <b>Phone:</b> 202-343-9147		<b>EPA GRANT SPECIALIST</b> Thuy T Nguyen 1200 Pennsylvania Ave., N.W Washington, DC 20460, 3903R <b>E-Mail:</b> nguyen.thuyt@epa.gov <b>Phone:</b> 202-564-5312
<b>PROJECT TITLE AND DESCRIPTION</b> Port of LA - Cargo Handling Equip Retrofits This project will improve air quality at the Port of Los Angeles and the surrounding communities by reducing emissions from in-use diesel engines. This project will retrofit 14 pieces of cargo handling equipment with diesel particulate filters.				
<b>BUDGET PERIOD</b> 05/01/2014 - 04/30/2016	<b>PROJECT PERIOD</b> 05/01/2014 - 04/30/2016	<b>TOTAL BUDGET PERIOD COST</b> \$469,000.00	<b>TOTAL PROJECT PERIOD COST</b> \$469,000.00	
<b>NOTICE OF AWARD</b>  Based on your Application dated 02/10/2014 including all modifications and amendments, the United States acting by and through the US Environmental Protection Agency (EPA) hereby awards \$469,000. EPA agrees to cost-share 100.00% of all approved budget period costs incurred, up to and not exceeding total federal funding of \$469,000. Recipient's signature is not required on this agreement. The recipient demonstrates its commitment to carry out this award by either: 1) drawing down funds within 21 days after the EPA award or amendment mailing date; or 2) not filing a notice of disagreement with the award terms and conditions within 21 days after the EPA award or amendment mailing date. If the recipient disagrees with the terms and conditions specified in this award, the authorized representative of the recipient must furnish a notice of disagreement to the EPA Award Official within 21 days after the EPA award or amendment mailing date. In case of disagreement until the disagreement is resolved, the recipient should not draw down on the funds provided by this award/amendment, and any costs incurred by the recipient are at its own risk. 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.				
<b>ISSUING OFFICE (GRANTS MANAGEMENT OFFICE)</b>			<b>AWARD APPROVAL OFFICE</b>	
<b>ORGANIZATION / ADDRESS</b> Grants and Interagency Agreement Management Division 1200 Pennsylvania Ave, NW Mail code 3903R Washington, DC 20460			<b>ORGANIZATION / ADDRESS</b> Environmental Protection Agency Office of Air and Radiation 1200 Pennsylvania Ave, NW Washington, DC 20460	
<b>THE UNITED STATES OF AMERICA BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY</b>				
<b>Digital signature applied by EPA Award Official for</b> Jill D. Young - Chief - Grants Management Branch A Gary Carrozza - Award Official delegate				<b>DATE</b> 03/26/2014

TRANSMITTAL 1

## EPA Funding Information

FUNDS	FORMER AWARD	THIS ACTION	AMENDED TOTAL
EPA Amount This Action	\$	\$ 469,000	\$ 469,000
EPA In-Kind Amount	\$	\$	\$ 0
Unexpended Prior Year Balance	\$	\$	\$ 0
Other Federal Funds	\$	\$	\$ 0
Recipient Contribution	\$	\$	\$ 0
State Contribution	\$	\$	\$ 0
Local Contribution	\$	\$	\$ 0
Other Contribution	\$	\$	\$ 0
<b>Allowable Project Cost</b>	<b>\$ 0</b>	<b>\$ 469,000</b>	<b>\$ 469,000</b>

Assistance Program (CFDA)	Statutory Authority	Regulatory Authority
66.039 - National Clean Diesel Funding Assistance Program (B)	Diesel Emissions Reduction Act of 2010 codified at 42 U.S.C. 16131 et seq	40 CFR PART 31

Site Name	Req No	FY	Approp. Code	Budget Organization	PRC	Object Class	Site/Project	Cost Organization	Obligation / Deobligation
-	1456F30235	13	E4	56FC	102AH4	4122			469,000
									469,000

Budget Summary Page: Port of LA Emissions Reduction Project - Retrofit of CHE

<b>Table A - Object Class Category (Non-construction)</b>	<b>Total Approved Allowable Budget Period Cost</b>
<b>1. Personnel</b>	\$9,000
<b>2. Fringe Benefits</b>	\$0
<b>3. Travel</b>	\$0
<b>4. Equipment</b>	\$460,000
<b>5. Supplies</b>	\$0
<b>6. Contractual</b>	\$0
<b>7. Construction</b>	\$0
<b>8. Other</b>	\$0
<b>9. Total Direct Charges</b>	\$469,000
<b>10. Indirect Costs: <u>0.00%</u> Base</b>	\$0
<b>11. Total (Share: Recipient <u>0.00</u> % Federal <u>100.00</u> %.)</b>	\$469,000
<b>12. Total Approved Assistance Amount</b>	\$469,000
<b>13. Program Income</b>	\$0
<b>14. Total EPA Amount Awarded This Action</b>	\$469,000
<b>15. Total EPA Amount Awarded To Date</b>	\$469,000

SAMPLE

**Administrative Conditions**

**1. GENERAL TERMS and CONDITIONS**

The recipient agrees to comply with the applicable EPA general terms and conditions available at : <http://www.epa.gov/ogd/tc.htm>. These terms and conditions are in addition to the assurances and certifications made as part of the award and the terms, conditions or restrictions cited below .

2. In accordance with Section 2(d) of the Prompt Payment Act (P.L. 97-177), Federal funds may not be used by the recipient for the payment of interest penalties to contractors when bills are paid late nor may interest penalties be used to satisfy cost sharing requirements . Obligations to pay such interest penalties will not be obligations of the United States.

**3. 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 Disadvantaged Business Enterprise (DBE) Program for procurement activities 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 participation in procurement under the financial assistance agreements .

In accordance with 40 CFR, Section 33.411 some recipients may be exempt from the fair share objectives requirements as described in 40 CFR, Part 33, Subpart D. Recipients should work with their DBE coordinator, if they think their organization may qualify for an exemption .

**Accepting the Fair Share Objectives /Goals of Another Recipient**

The dollar amount of this assistance agreement , or the total dollar amount of all of the recipient's financial assistance agreements in the current federal fiscal year from EPA is \$250,000, or more. The recipient accepts the applicable MBE/WBE fair share objectives/goals negotiated with EPA by the **California Environmental Protection Agency** as follows:

	MBE	WBE
Construction	2%	1%
Supplies	1%	1%
Services	1%	1%
Equipment	1%	1%

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 **California Environmental Protection Agency** .

**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) Ensure 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, Subpart E**

MBE/WBE reporting is limited to annual reports and only required for assistance agreements where one or more the following conditions are met:

- (a) there are any funds budgeted in the contractual, equipment or construction lines of the award;
- (b) \$3,000 or more is included for supplies; or
- (c) there are funds budgeted for subawards or loans in which the expected budget(s) meet the conditions as described in items (a) and (b).

This award meets one or more of the conditions as described above, therefore, the recipient agrees to complete and submit a "MBE/WBE Utilization Under Federal Grants, Cooperative Agreements and Interagency Agreements" report (EPA Form 5700-52A) on an annual basis.

When completing the annual report, recipients are instructed to check the box titled "annual" in section 1B of the form. For the final report, recipients are instructed to check the box indicated for the "last report" of the project in section 1B of the form. Annual reports are due by October 30<sup>th</sup> of each year. Final reports are due within 90 days after the end of the project period, whichever comes first.

The reporting requirement is based on planned procurements. Recipients with funds budgeted for non-supply procurement and/or \$3,000 or more in supplies are required to report annually whether the planned procurements take place during the reporting period or not. If no procurements take place during the reporting period, the recipient should check the box in section 5B when completing the form.

MBE/WBE reports should be sent to Veronica Parker, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW Mail Code 3903R, Room 51225, Washington, DC 20460, 202-564-5347. The current EPA Form 5700-52A can be found at the EPA Office of Small Business Program's Home Page at [http://www.epa.gov/osbp/dbe\\_reporting.htm](http://www.epa.gov/osbp/dbe_reporting.htm)

This provision represents an approved deviation from the MBE/WBE reporting requirements as described in 40 CFR, Part 33, Section 33.502; however, the other requirements outlined in 40 CFR Part 33 remain in effect, including the Fair Share Objectives negotiation as described in 40 CFR Part 33 Subpart D.

#### **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 procurements. Please see 40 CFR, Section 33.501 (b) and (c) for specific requirements and exemptions.

#### **4. PAYMENT to CONSULTANT**

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-16) 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, 2014, the limit is \$1,316 per day and \$75.27 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).

Contracts 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).

#### **5. FOR PROFIT SUB - RECIPIENTS**

In addition to the EPA General Term and Condition #8 "Establishing and Managing Subawards", the recipient agrees to:

- 1) Utilize terms and conditions in all subgrants to for-profit sub-recipients that apply the following regulations to for-profit sub-recipients: 40 CFR Sections 30.2, 30.13, 30.14, 30.16, 30.17, 30.18, 30.20, 30.23, 30.25, 30.26(d), 30.28, 30.31, 30.34, 30.35, 30.36, 30.37, 30.40-47, 30.51, 30.53, 30.61, 30.62. For the purposes of applying the listed regulations to for-profit sub-recipients, the Recipient shall perform the functions that the regulations provide will be performed by EPA.
- 2) Establish a procedure for resolving disputes with for-profit sub-recipients.
- 3) Not reimburse a for-profit sub-recipient until receipt of documentation that the sub-recipient has incurred eligible and allowable costs. Per 40 CFR 30.27, the allowability of costs incurred by for-profit organizations is determined in accordance with the provisions of the Federal Acquisition Regulation (FAR) at 48 CFR Part 31.
- 4) Obtain a final report detailing how the for-profit sub-recipient expended funds in a format prescribed by the Recipient.
- 5) Ensure that for-profit sub-recipients are aware of requirements imposed upon them by applicable Federal statutes, regulations, and these terms and conditions.

## 6. INVENTION

Rights to inventions made under this assistance agreement are subject to the provisions of Title 37 Code of Federal Regulations (CFR), Part 401, 'Rights to Inventions Made by Nonprofit Organizations and Small Business Firms under Government Grants, Contracts, and Cooperative Agreements', as revised through the date of this assistance agreement.

### **Programmatic Conditions**

#### **1. Substantial Federal Involvement for Cooperative Agreements**

EPA will provide substantial involvement in the form of technical assistance, development of outputs, and oversight. Specifically, substantial federal involvement will take the form of monitoring the project by EPA, participation and collaboration between EPA and the recipient in program content, review of project progress, and quantification and reporting of results.

#### **2. Emissions Control Technologies**

Emissions Reduction Projects funded by the recipient pursuant to this assistance agreement must use verified technologies and/or must use engines and engine configurations certified by EPA and, if applicable, CARB. Technologies are verified under EPA or California's Retrofit Technology Verification Programs. See <http://epa.gov/cleandiesel/verification/verif-list.htm> for an updated list of EPA's verified technologies and <http://www.arb.ca.gov/diesel/verdev/vcvt.htm> for a list of CARB's verified technologies. Any question as to the eligibility or reference of a retrofit technology, including vehicle/equipment replacement and repowers, should be directed to the EPA Project Officer. Technology changes may not be allowed after a final workplan has been approved. If technology compatibility issues arise, EPA may elect to terminate the cooperative agreement, at which time assistance funds must be returned to EPA.

#### **3. Quarterly Reporting and Environmental Results**

Quarterly progress reports will be required. Quarterly reports are considered project status reports and will address the progress made in achieving the work plan goals. In general, quarterly reports will include summary information on technical progress and expenditures, and planned activities for next quarter. A template for the quarterly report is available at <http://www.epa.gov/cleandiesel/quarter-reporting.htm>.

Quarterly reports are due according to the following schedule. If a due date falls on a weekend or holiday, the report will be due on the next business day.

April 1 - June 30 Reporting Period: report due date July 30

July 1 - September 30 Reporting Period: report due date October 30

October 1 - December 31 Reporting Period: report due date January 30

January 1 - March 31 Reporting Period: report due date April 30

If a project start date falls within a defined Reporting Period the recipient must report for that period by the given due date. This quarterly reporting schedule shall be repeated for the duration of the award agreement.

#### **4. Final Report :**

The final project report will include all categories of information required for quarterly reporting, including a final, detailed fleet description. The final project report will also include a narrative summary of the project or activity, actual project results (outputs and outcomes) including actual emissions benefit calculations, and the successes and lessons learned for the entire project.

For projects involving vehicle/equipment replacement and repowers the recipient must provide in the final report: 1) Evidence that the replacement activity is an "early replacement," and would not have

occurred through normal attrition/fleet turnover (i.e. without the financial assistance provided by EPA) within three years of the project period start date. Supporting evidence can include verification that the vehicles or equipment being replaced have useful life left and fleet characterization showing fleet age ranges and average turnover rates per the vehicle or fleet owner's budget plan, operating plan, standard procedures, or retirement schedule; 2) Evidence of appropriate scrappage or remanufacture (such as a photograph of the scrapped engine), including the engine serial number and/or the vehicle identification number (VIN); and 3) Specification of the model years and the emission standard levels for PM and NOx, for both the engine being replaced and the new engine.

For projects that take place in an area affected by, or includes vehicles, engines or equipment affected by federal law mandating emissions reductions, the recipient must provide in the final report evidence that emission reductions funded with EPA funds were implemented prior to the effective date of the mandate and/or are in excess of (above and beyond) those required by the applicable mandate.

The final report shall be submitted to the EPA Project Officer within 90 days after the project period end date or termination of the assistance agreement. A template for the final report is available at <http://www.epa.gov/cleandiesel/grant-reporting.htm>.

#### 5. Use of Funds Restriction :

- 1) **Mandated Measures:** Recipient agrees that funds under this award cannot be used for emissions reductions that are mandated under federal law. This refers to specific compliance dates within the mandate, not when the mandate is passed. Voluntary or elective emissions reductions measures shall not be considered "mandated", regardless of whether the reductions are included in the State Implementation Plan of a State.
- 2) **Normal Attrition:** Recipient agrees that funds under this award cannot be used for emission reductions that result from vehicle/equipment replacements or repowers that would have occurred through normal attrition/fleet turnover within three years of the project start date. Any question as to eligibility of a vehicle/equipment replacement or re-power should be directed to the EPA Project Officer.
- 3) **Fleet Expansion:** Recipient agrees that funds under this award, including subawards/subgrants, cannot be used for the purchase of vehicles, engines, or equipment to expand a fleet. The recipient agrees that:
  - i. The replacement vehicle, engine, or equipment will perform the same function and operation as the vehicle, engine, or equipment that is being replaced (e.g., an excavator used to dig pipelines would be replaced by an excavator that continues to dig pipelines);
  - ii. The replacement vehicle, engine, or equipment will be of the same type and similar gross vehicle weight rating or horsepower as the vehicle, engine, or equipment being replaced (e.g., a 300 horsepower bulldozer is replaced by a bulldozer of similar horsepower). Horsepower increases of more than 10 percent require written approval from the EPA Project Officer prior to purchase.
  - iii. The engine being replaced will be scrapped or rendered permanently disabled within ninety (90) days of the replacement, or remanufactured to a certified cleaner emission standard. Permanently disabling the engine while retaining possession of the engine is an acceptable scrapping method. Disabling the engine may be completed by drilling a hole in the engine block (the part of the engine containing the cylinders) and manifold. Alternatively, disabling the engine may be completed by removing the engine oil from the crankcase, replacing it with a 40 percent solution of sodium silicate and running the engine for a short period of time at low speeds, thus rendering the engine inoperable. Remanufacturing shall be performed by the original engine manufacturer, or by a dealership/distributor that has a service program that is sponsored/backed by original engine manufacturer warranties (i.e. the new, remanufactured and upgraded engine is warranted by the OEM). Non-road engines shall be remanufactured to the cleanest certified emission standard possible. Highway engines shall be remanufactured to Model Year (MY) 2007 or newer certified emission standards. Remanufacturing must be completed during the project period. Other acceptable scrappage methods may be considered and will require prior written approval from the EPA Project

Officer. If scrapped or remanufactured engines are to be sold, program income requirements apply.

- iv. The vehicle/equipment being replaced will be scrapped or rendered permanently disabled within ninety (90) days of the replacement, or remanufactured to a certified cleaner emission standard. Permanently disabling the chassis and disabling or remanufacturing the engine (see iii above) while retaining possession of the vehicle/equipment is an acceptable scrapping method. Disabling the chassis may be completed by cutting through the frame/frame rails on each side at a point located between the front and rear axles. Other acceptable scrapping methods may be considered and will require prior written approval from the EPA Project Officer. Vehicle/equipment components that are not part of the engine or chassis may be salvaged from the unit being replaced (e.g. plow blades, shovels, seats, etc.). If scrapped or remanufactured vehicles/equipment or salvaged vehicle/equipment chassis or components are to be sold, program income requirements apply.
- 4) **Matching Funds:** Recipient agrees that funds under this award cannot be used for matching funds for other federal grants, lobbying, or intervention in federal regulatory or adjudicatory proceedings, and cannot be used to sue the Federal Government or any other government entity.
- 5) **Formerly Verified Technologies:** Recipient agrees that funds under this award cannot be used for retrofit technologies on EPA's or CARB's, "Formerly Verified Technologies" lists: <http://www.epa.gov/cleandiesel/verification/deleted-list.htm>, [www.arb.ca.gov/diesel/verdev/vt/fv1.htm](http://www.arb.ca.gov/diesel/verdev/vt/fv1.htm), [www.arb.ca.gov/diesel/verdev/vt/fv2.htm](http://www.arb.ca.gov/diesel/verdev/vt/fv2.htm), and [www.arb.ca.gov/diesel/verdev/vt/fv3.htm](http://www.arb.ca.gov/diesel/verdev/vt/fv3.htm). Recipient agrees that funds under this award cannot be used for idle reduction technologies on EPA's "Technologies No Longer Verified" list that can be found at: <http://epa.gov/smartway/forpartners/technology/tables/4>. Recipient agrees that funds under this award cannot be used for technologies on the Emerging Technologies list which can be found at: [www.epa.gov/cleandiesel/verification/emerg-list.htm](http://www.epa.gov/cleandiesel/verification/emerg-list.htm).
- 6) **Emissions Testing:** Recipient agrees that funds under this award cannot be used for emissions testing and/or air monitoring activities (including the acquisition cost of emissions testing equipment), or research and development.
- 7) **Fueling Infrastructure:** Recipient agrees that funds under this award cannot be used for fueling infrastructure, such as that used for the production and/or distribution of biodiesel, compressed natural gas, liquefied natural gas, and/or other cleaner fuels.
- 8) **Drayage Truck Model Year:** With regard to drayage trucks, recipient agrees that funds under this award cannot be used to retrofit, repower or replace a model year 1989 or older engine, or to retrofit a model year 2007 or newer engine with DOCs or DPFs, or retrofit a model year 2010 or newer engine with SCR, or replace model year 2004 or newer engine, or repower or convert model year 2004 or newer engine.
- 9) **Nonroad Useful Life and Operating Hours:** Recipient agrees that funds under this award cannot be used to retrofit, repower, upgrade or replace a nonroad engine or equipment that has less than seven years of useful life remaining. A table distinguishing which nonroad engine model years EPA has determined to have at least seven years of useful life remaining, based on the type and age of vehicle, can be found at <http://www.epa.gov/cleandiesel/documents/fy13-nonroad-remaining-useful-life.pdf>. In addition, recipient agrees that funds under this award cannot be used to retrofit, repower, upgrade or replace nonroad engines and equipment that operate less than 500 hours per year.
- 10) **Nonroad Repower/Replacement:** Recipient agrees that funds under this award cannot be used to repower or replace nonroad Tier 0 (unregulated) engines to a nonroad Tier 1 or lower nonroad engine standard or from a Tier 2 nonroad engine standard to a Tier 3 or lower nonroad engine standard.
- 11) **Marine Repower/Replacement/Upgrade:** Recipient agrees that funds under this award cannot be used to repower, replace or upgrade Tier 3 or Tier 4 marine engines, or to repower or replace marine engines from Tier 1 marine engine standard to Tier 1 or lower marine engine standard, or from a Tier 2 marine engine standard to a Tier 2 or lower marine engine standard.
- 12) **Locomotive Retrofit/Repower/Replacement/Upgrade:** Recipient agrees that funds under this award cannot be used to retrofit unregulated or Tier 0 locomotives with SCR, or to upgrade, repower or replace locomotives from: Tier 0+/1 to Tier 0+ or lower; Tier 1+/2 to Tier 1+ or lower;

Tier 2 to Tier 1+ or lower; or, from Tier 2+ to Tier 2+ or lower. In addition, recipient agrees that funds under this award cannot be used upgrade, repower or replace line-haul locomotives from Tier 2 to Tier 4, or to upgrade, repower or replace line-haul locomotives from Tier 2+ to Tiers 3 and 4, or to install Automatic Engine Start-Stop technologies on locomotives currently certified to Tier 0+ or higher.

- 13) Marine Shore Connection: No funds awarded under this RFP shall be used for marine shore connection system projects that are expected to be utilized less than 2,000 MW-hr/year.
- 14) Locomotive Shore Connection: No funds awarded under this RFP shall be used for locomotive shore connection system projects that are expected to be utilized less than 1,000 hours/year.
- 15) Locomotive and Marine Operating Hours: Recipient agrees that funds awarded under this RFP cannot be used to retrofit, repower, replace, upgrade or install idle reduction technologies on eligible locomotives or marine engines that operate less than 1000 hours per year.
- 16) Engine Upgrade: In the case of an engine upgrade with a certified remanufacture system applied at the time of rebuild (not manufacturer upgrades that are retrofits verified by EPA or CARB), recipient agrees that funds under this award cannot be used for the entire cost of the engine rebuild, but only for the incremental cost of the certified remanufacture system and associated labor costs for installation. Any question as to eligibility of engine upgrade costs should be directed to the EPA Project Officer.

#### **6. Drayage Vehicle Replacement Project Requirements :**

- 1) In addition to the scrappage requirements for all vehicles/equipment described in E.3.iv above, recipients replacing drayage vehicles are required to establish and document guidelines to ensure that the scrapped vehicle has a history of operating on a frequent basis over the prior year as a drayage truck.
- 2) The recipient must establish and document guidelines to ensure that all drayage trucks receiving grant funds are operated in a manner consistent with the definition of a drayage truck, defined as any Class 8a and 8b in-use on-road vehicle with a gross weight rating (GVWR) of greater than 33,000 pounds operating on or transgressing through port or intermodal rail yard property for the purpose of loading, unloading or transporting cargo, such as containerized, bulk or break-bulk goods.

#### **7. Delays or Favorable Developments :**

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

#### **8. Procurement and Sub-grant Procedures :**

The recipient must follow applicable procurement and sub-grant procedures. EPA will not be a party to these transactions. If EPA funds are used to purchase goods or services, recipient agrees to compete the contracts for those goods and services and conduct cost and price analyses to the extent required by the fair and open competition for procurement provisions of 40 CFR Part 30 or 40 CFR Part 31, as applicable. Approval of a funding proposal does not relieve recipients of their obligations to compete service contracts, conduct cost and price analyses, and use sub-grants only for financial assistance purposes, in accordance with Subpart B Section .210 of OMB Circular A-133.

#### **9. Employee and/or Contractor Selection :**

EPA will not help select employees or contractors hired by the recipient.

#### **10. Program Income :**

If program income is generated during the course of the project, program income requirements apply. Program income is defined as gross income received by the grantee or subgrantee directly generated by a grant supported activity, or earned only as a result of the grant agreement during the grant

period. "During the grant period" is the time between the effective date of the award and the ending date of the award reflected in the Award Document. Program income earned during the project period shall be retained by the recipient and, in accordance with 40 CFR Parts 30.24 and 31.25 as applicable, recipient is authorized to use program income as follows :

- 1) Program income may be added to funds committed to the project by EPA and recipient and used to further eligible project or program objectives . The program income shall be used for the purposes and under the conditions of the grant agreement.
- 2) Program income may be used to finance the non-federal share of the project or program, including any mandatory or voluntary cost-share. The amount of the Federal grant award remains the same.
- 3) Deducted from the total project or program allowable cost in determining the net allowable costs on which the federal share of costs is based. This means that the recipient shall spend program income on project activities before spending/requesting federal funds for project activities . This may result in unspent federal funds at the end of the project period.

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

#### **11. Equipment Use , Management , and Disposition**

These equipment use, management, and disposition instructions are applicable to assistance agreement recipients and subrecipients acquiring equipment under this award . State agencies may use, manage and dispose of equipment acquired under assistance agreements by the State in accordance with State laws and procedures.

Recipient agrees the equipment acquired under this assistance agreement will be subject to the use and management and disposition regulations at 40 CFR 30.34 and 31.32, as applicable. Equipment is defined as tangible non-expendable personal property having a useful life of more than one year and an acquisition cost and/or current market value of \$1,000 or more per unit. Certified or verified technologies, vehicles, engines and non-road equipment are considered to be equipment to the extent they fall within this definition.

Recipient agrees that at the end of the project period the recipient will continue to use the equipment purchased under this assistance agreement in the project or program for which it was acquired as long as needed, whether or not the project or program continues to be supported by federal funds