

# Attachment 1

## Terms and Conditions for Funded Grants

### EXHIBIT B

#### BUDGET DETAIL AND PAYMENT PROVISIONS

1. **Payment in Arrears:** Payment shall be made in arrears based on receipt of a complete, properly documented and accurately addressed invoice or payment request.
2. **Invoicing:**
  - 2.1 Invoices shall include the Agreement Number and shall be submitted in triplicate not more frequently than monthly in arrears to:  
  
Resources Agency  
CALFED Offices  
650 Capitol Mall, 5<sup>th</sup> Floor  
Sacramento, CA 95814  
Attn: Accounting Department
  - 2.2 Payment of any invoice will be made only after receipt of a complete and accurate invoice or payment request. Failure to use the address exactly as provided above may result in return of the invoice or payment request to the Grantee. Payment shall be deemed complete upon deposit of the payment, properly addressed, postage prepaid, in the United States mail. All invoices must be approved by the Resources Agency Grant Manager.
  - 2.3 Notwithstanding any other provision of this Agreement, no disbursement shall be required at any time or in any manner which is in violation of or in conflict with federal or state laws, rules, or regulation, or which may require any rebates to the Federal Government, or any loss of tax-free status on state bonds, pursuant to any federal statute or regulation.
  - 2.4 Notwithstanding any other provision of this Agreement, the Grantee agrees that the Resources Agency may retain an amount equal to ten percent (10%) of the grant amount specified in this Agreement until completion of the Project in accordance with the Scope of Work. Any retained amounts due to the Grantee will be promptly disbursed to the Grantee, without interest, upon completion of the Project. Resources Agency
  - 2.5 The invoice shall contain the following information:
    - 2.5.1 The word "INVOICE" should appear in a prominent location at the top of page(s);
    - 2.5.2 Printed name of the Grantee;

- 2.5.3 Business address of the Grantee, including P.O. Box, City, State, and Zip Code;
- 2.5.4 The date of the invoice;
- 2.5.5 The number of the Grant Agreement upon which the claim is based; and
- 2.5.6 The time period covered by the invoice, i.e., the term “from” and “to”;
  - 2.5.6.1 The method of computing the amount due.
  - 2.5.6.2 Supporting documentation for invoiced costs, for major equipment purchases..
- 2.5.7 Original signature of Grantee (not required of established firms or entities using preprinted letterhead invoices).

### **3. Budget Contingency Clause**

If the Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the program, this Agreement shall be of no force and effect. This provision shall be construed as a condition precedent to the obligation of the Resources Agency to make any payments under this Agreement. In this event, the State shall have no liability to pay any funds whatsoever to Grantee or to furnish any other considerations under this Agreement and Grantee shall not be obligated to perform any provisions of this Agreement. Nothing in this Agreement shall be construed to provide the Grantee with a right of priority for payment over any other Grantee.

If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this program, the State shall have the option to either cancel this Agreement with no liability occurring to the State, or offer an agreement amendment to Grantee to reflect the reduced amount.

### **4. Line Item Budget**

ATTACH LINE ITEM BUDGET FOR FUNDED PROJECT

### **5. Budget Line Item Flexibility**

- 5.1 Line Item adjustment(s). Subject to the prior review and written approval of the Grant Manager, adjustments between existing line item(s) may be used to defray allowable direct costs. Line item adjustments in excess of 15%, or a cumulative maximum of \$ 250,000, shall require an amendment to the Grant Agreement.
- 5.2 Procedure to Request an Amendment. Please refer to the Amendment Request Policy and Procedure on the web site.

### **6. Payment of Project Costs**

The Grantee agrees that it will provide for payment of its full share of Project costs and that all costs connected with the Project will be paid by the Grantee on a timely basis.

## EXHIBIT C

### GENERAL TERMS AND CONDITIONS FOR CALFED GRANTS

1. **Approval:** This Grant Agreement is of no force or effect until signed by both parties. Grantee shall not commence work under this Grant Agreement until such signatures have been obtained. Work performed prior to having a fully executed Grant Agreement is performed at the Grantee's risk, with no expectation of reimbursement.
2. **Amendment:** No amendment or variation of the terms of this Grant Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or agreement not incorporated in the Grant Agreement is binding on any of the parties.
3. **Assignment:** This Agreement is not assignable by the Grantee, either in whole or in part, without the consent of the Resources Agency in the form of a formal written amendment.
4. **Audit:** Grantee agrees that the awarding department, the Department of General Services, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Grant Agreement. Grantee agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. Grantee agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Grantee agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (GC 8546.7, PCC 10115 et seq., CCR Title 2, Section 1896).
5. **Indemnification:** Grantee agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by Grantee in the performance of this Agreement.
6. **Disputes:** Grantee shall continue with the responsibilities under this Grant Agreement during any dispute.
7. **Termination For Cause:** The grant agreement may be terminated by written notice at any time of this Grant Agreement prior to completion of the Project, at the option of the Resources Agency, upon violation by the Grantee of any material provision after such violation has been called to the attention of the Grantee and after failure of the Grantee to bring itself into compliance with the provisions of this Agreement within a reasonable time as established by the Resources Agency. In the event of such termination, the Grantee agrees, upon demand, to immediately repay to the Resources Agency an amount equal to the amount of grant funds disbursed to the Grantee prior to such termination. In the event of termination, interest shall accrue on all amounts due at the highest legal rate of interest from the date that notice of termination is mailed to the Grantee to the date of full repayment by the Grantee.

8. **Independent Status:** Grantee, and the agents and employees of Grantee, in the performance of this Grant Agreement, shall act in an independent capacity and not as officers or employees or agents of the State.
9. **Non-Discrimination Clause:** During the performance of this Grant Agreement, Grantee and its subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (cancer), age (over 40), marital status, and denial of family care leave. Grantee and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Grantee and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code Section 12990 (a-f) et seq.) and the applicable regulations promulgated there under (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Grantee and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.  
  
Grantee shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Grant Agreement.
10. **Compensation:** The compensation to be paid Grantee, as provided herein, shall be in compensation for all of Grantee's expenses incurred in the performance of this Grant Agreement, including travel, per diem, and taxes, unless otherwise expressly so provided.
11. **Governing Law:** This Grant Agreement is governed by and shall be interpreted in accordance with the laws of the State of California.
12. **Travel:** Any reimbursement for necessary travel and per diem shall be at rates specified by the California Department of Personnel Administration for similar employees ([www.dpa.ca.gov/jobinfo/statetravel.shtm](http://www.dpa.ca.gov/jobinfo/statetravel.shtm)). Federal agency grantees can invoice for travel reimbursement at State rates, and make necessary arrangements with their agency to be personally reimbursed for expenses at the available federal rate.
13. **Conflicts Of Interest:** Grantee shall comply with all applicable State laws and rules pertaining to conflicts of interest including, but not limited to, Government Code section 1090, Public Contract Code sections 10410 & 10411, and Public Contract Code section 10365.5.
14. **Unenforceable Provision:** In the event that any provision of this Grant Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Grant Agreement have force and effect and shall not be affected thereby.
15. **Drug-Free Workplace Requirements:** Grantee will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:

- a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.
- b. Establish a Drug-Free Awareness Program to inform employees about:
  - 1) The dangers of drug abuse in the workplace;
  - 2) The person's or organization's policy of maintaining a drug-free workplace;
  - 3) Any available counseling, rehabilitation and employee assistance programs; and,
  - 4) Penalties that may be imposed upon employees for drug abuse violations.
- c. Every employee who works on the proposed Agreement will:
  - 1) Receive a copy of the company's drug-free workplace policy statement; and,
  - 2) Agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Grantee may be ineligible for award of any future State agreements if the department determines that the Grantee failed to carry out the requirements as noted above.

- 16. Withholding Of Grant Disbursements:** The Resources Agency may withhold all or any portion of the grant funds provided for by this Agreement in the event that the Grantee has materially violated, or threatens to materially violate, any term, provision, condition, or commitment of this Agreement; or the Grantee fails to maintain reasonable progress toward completion of the Project.

## **EXHIBIT D**

### **SPECIAL TERMS AND CONDITIONS FOR SCIENCE PROGRAM GRANTS**

#### **1. Grantee Responsibilities and State Requirements**

- 1.1 The Grantee has full responsibility for the conduct of the project or activity supported under the Grant Agreement and for adherence to the award conditions. Although the Grantee is encouraged to seek the advice and opinion of CBDA on special problems that may arise, such advice does not diminish the Grantee's responsibility for making sound scientific and administrative judgments and should not imply that the responsibility for operating decisions has shifted to CBDA. The Grantee is responsible for notifying CBDA about: (1) any allegation of research misconduct that it concludes has substance (2) any significant problems relating to the administrative or financial aspects of the award.
- 1.2 By acceptance of this award, the Grantee agrees to comply with the applicable State requirements for grants and to the prudent management of all expenditures and actions affecting the award. Documentation for each expenditure or action affecting this award must reflect appropriate organizational reviews or approvals that should be made in

advance of the action. Organizational reviews are intended to help assure that expenditures are allowable, necessary and reasonable for the conduct of the project, and that the proposed action:

1. is consistent with award terms and conditions;
2. is consistent with CBDA and grantee policies;
3. represents effective utilization of resources; and
4. does not constitute a significant project change (see Article 11).

Nothing in this article shall be construed to require administrative reviews or documentation that duplicates those already required by existing organizational systems.

- 1.3 The Grantee is responsible for ensuring that the Principal Investigator(s) or Project Director(s) receives a copy of the award conditions, including: the award letter, a copy of the Grant Agreement, and any subsequent changes in the award conditions. This provision does not alter the Grantee's full responsibility for conduct of the project and compliance with all award terms and conditions.

## **2. Publications/Acknowledgement of Support**

- 2.1 *Acknowledgment of Support.* The grantee is responsible for assuring that an acknowledgment of CALFED Bay-Delta Program support is made:
  - a. in any publication (including World Wide Web pages) of any material based on or developed under this project, in the following terms:

"This material is based upon work supported by the CALFED Science Program under Grant No. (CBDA grant number)."
  - b. CALFED Bay-Delta Program support also must be orally acknowledged during all news media interviews, including popular media such as radio, television and news magazines.
- 2.2 *Disclaimer.* The grantee is responsible for assuring that every publication of material (including World Wide Web pages) based on or developed under this award, except scientific articles or papers appearing in scientific, technical or professional journals, contains the following disclaimer:

"Any opinions, findings, and conclusions or recommendations expressed in this material are those of the author(s) and do not necessarily reflect the views of the California Bay Delta Authority or CALFED Bay-Delta Program."
- 2.3 *Copies for CBDA.* The grantee is responsible for assuring that two copies of every publication of material based on or developed under this award, clearly labeled with the award number and other appropriate identifying information, are sent to the CBDA Project Representative promptly after publication.

## **3. Government Permits and Environmental Review**

Grantee is responsible for ensuring compliance with all applicable permitting and environmental review requirements that may be required to accomplish the project described in the Scope of Work.

As a condition of grant funding, Grantee is required to utilize the information and analysis in the CALFED Programmatic Environmental Impact Statement/Environmental

Impact Report (PEIS/EIR), to the extent applicable, in evaluating the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA) compliance needs for the Project.

As a further condition of grant funding, Grantee is required to utilize the information, analysis, and procedures in the CALFED Multi-species Conservation Strategy (MSCS), to the extent applicable, in complying with state and federal endangered species acts for the Project.

#### **4. Permission for Access to Private Property**

If Grantee requires access across private property, Grantee shall provide written evidence of the property owner's permission for access to the property.

#### **5. Subcontracts**

Grantee is responsible for all subcontracted work. Subcontracts must include all applicable terms and conditions as presented herein. Subcontractors not specifically identified in the grant proposal must be obtained using a competitive bidding process, or non-competitive selection process, that meets basic State requirements. The Grantee must provide copies of all executed subcontracts to the CBDA Grant Manager.

#### **6. Reporting Requirements**

Grantee will be required to submit a project report every six (6) months until the project is completed. These reports will serve as performance measures/ project monitoring tools to allow determination of the success of the project in relation to its objectives. The report will include descriptive information such as activities performed during the period, findings, the percentage of each task completed, the deliverables produced, problems and delays encountered, etc. Financial information should also be included with this report outlining: 1) the financial status of the project (amount invoiced to the grantee agency and the amount invoiced to cost share partners) and 2) six month expenditure/ invoice projections to enable funding availability for payment of invoices. The final report must include copies of any publications or reports produced. The final report is due on or before the scheduled project completion date.

#### **7. Project Presentations**

Grantee agrees to present project findings at the biennial CALFED Science Conference and/or other CALFED Science Program workshops and symposia.

#### **8. Site Visits**

CBDA staff, or its authorized representatives, has the right, at all reasonable times, to make site visits to review project accomplishments and management control systems and to provide such technical assistance as may be required. If any site visit is made by CBDA on the premises of the Grantee or a subcontractor under an award, the Grantee shall provide and shall require subcontractors to provide all reasonable facilities and assistance for the safety and convenience of the CBDA staff or authorized representatives in the performance of their duties.

#### **9. Equipment**

## 9.1 Conditions for Acquisition and Use of Equipment.

9.1.1 Grantee Assurance. The grantee will assure that each purchase of equipment is:

- (a) necessary for the research or activity supported by the grant;
- (b) not otherwise reasonably available and accessible;
- (c) of the type normally charged as a direct cost; and
- (d) acquired in accordance with organizational practice.

## **10. Dispute Resolution**

Any claim that the Grantee may have regarding the performance of this Grant Agreement, including, but not limited to, claims for additional compensation or extension of time, shall be submitted to the Science Program Manager within thirty days of its accrual. The Science Program Manager will attempt to facilitate a mutually acceptable resolution of the dispute.

## **11. Notice**

11.1 Grantee shall promptly notify CBDA in writing or via electronic mail of events or proposed changes that could affect the scope, budget, or work performed under this Grant Agreement, and shall obtain CBDA's prior written or electronic mail approval to proceed accordingly. Notwithstanding the foregoing, any "substantial" change proposed in the scope, budget, or work performed under this Grant Agreement shall require, prior to undertaking that change, a formal agreement amendment. "Substantial" changes shall include, but not be limited, to the following:

- (a) Budget line item adjustments in excess of the lesser of \$250,000 or 15% of the agreement total, including any amendments thereto.
- (b) Budget adjustments deleting a budget line or adding a new budget line item.
- (c) Transfer of significant project responsibilities to or among subgrantees.
- (d) Change in phenomenon or phenomena under study or previously-stated project objectives.
- (e) Change in, or relinquishment of active direction by, Principal Investigator.
- (f) Extension of Term of Agreement.

11.2 Grantee shall notify CBDA in writing or via electronic mail at least 10 working days prior to any public or media event publicizing the accomplishments and/or results of this Agreement and provide the opportunity for attendance and participation by CBDA's representatives.

11.3 Grantee shall promptly notify CBDA in writing or via electronic mail of completion of work on the Project.

## **12. Rights in Data**

The Grantee agrees that all data, plans, drawings, specifications, reports, computer programs, operating manuals, notes, and other written or graphic work produced in the performance of this Grant are subject to the rights of the State as set forth in this section. The State shall have the right to reproduce, publish, and use all such work, or any part thereof, in any manner and for any purposes whatsoever and to authorize others to do so. If any such work is copyrightable, the Grantee may copyright the same, except that, as to any work which is copyrighted by the Grantee,

the State reserves a royalty-free, fully paid-up, nonexclusive, and irrevocable license to reproduce, publish, and use such work, or any part thereof, and to authorize others to do so for a public purpose. Except for publication or other dissemination of results for education or research purposes, the Grantee shall not utilize the materials for any profit-making venture or sell or grant rights to a third party who intends to do so.

### **13. Peer Review**

California Bay-Delta Authority staff may establish peer review panels to review and comment on successful applicants work product or deliverables.