

Form <b>9661</b> (Rev. 5-2012)	Department of the Treasury – Internal Revenue Service <b>COOPERATIVE AGREEMENT</b>	<b>TCE</b>
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Federal Award Identifier ( <i>grant file number</i> ):	CFDA Program: 21.006 Tax Counseling for the Elderly
Grant Period: October 1, _____ to September 30, _____	Program Source: 20-2009
Maximum Award: _____	Multi-Year: <input type="checkbox"/> Yes <input type="checkbox"/> No
Multi-Year Period: <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3	

Minimum Federal Returns to be Accomplished by Your Program: \_\_\_\_\_

This **Cooperative Agreement** is entered into by the Internal Revenue Service, Department of the Treasury, United States of America, hereinafter referred to as IRS, and

\_\_\_\_\_,  
(name, city and state of grant recipient)

and hereinafter referred to as sponsor. This agreement is conditioned upon the appropriation of funds by Congress for the Tax Counseling for the Elderly Program (TCE). The sponsor agrees to operate a Tax Counseling for the Elderly Program as proposed in conformity with the requirements of the following:

1. TCE Grant Program Terms and Conditions
2. TCE Terms and Conditions Addendum
3. Form 8653, Application Plan
4. Proposed Program/Budget Plan;
5. Publication 1101, Application Package and Guidelines for Managing a TCE Program;
6. Standard Form 424, Application for Federal Assistance;
7. List of Assurances and Certifications;
8. Section 163 of the Revenue Act of 1978, Public Law No. 95-600, 92 Stat. 2810, November 6, 1978;
9. Office of Management and Budget (OMB) Circulars A-102 and A-133 and 2 CFR Part 215 (formerly OMB Circular A-110), 2 CFR Part 220 (formerly OMB Circular A-21), and 2 CFR Part 230 (formerly OMB Circular A-122), and Federal regulations, as applicable;
10. All additional applicable statutory requirements, and all additional applicable requirements in OMB Circulars, Department of the Treasury Circulars and Federal Management Circulars;
11. The common rule on non-procurement debarment and suspension, adopted by the Department of the Treasury (31 CFR Part 19); and
12. The common rule on government-wide requirements for Drug-Free Workplace (Grants), adopted by the Department of the Treasury (31 CFR Part 20).

**Grant Period:** The Grant Agreement covers the grant period shown above and is conditional on compliance with terms and conditions as outlined. Expenses incurred before or after this period are not covered by this grant.

No additional expense reimbursements or other payments shall be made by the IRS unless the maximum amount of funds set forth above is increased in writing by the Director, Stakeholder Partnerships, Education and Communication, Wage and Investment Division, or their designee.

If multi-year award is indicated above, you are an approved multi-year grant recipient. Your grant will be renewed in year two or year three, provided your organization meets the multi-year grant criteria as outlined in the application package for your initial multi-year award. Funding for the subsequent grant cycle may be increased or decreased, depending on the Congressional appropriation for the TCE Program and your organization's performance during the grant cycle covered by this award.

**Approved by an Authorized Representative of the Program Sponsor by:**

**Approved for the Internal Revenue Service by:**

\_\_\_\_\_  
Name (Please Print)

\_\_\_\_\_  
Name (Please Print)

\_\_\_\_\_  
Title (Please Print)

\_\_\_\_\_  
Title (Please Print)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

## **TCE GRANT PROGRAM TERMS AND CONDITIONS**

These special terms and conditions neither restate all the provisions of the applicable statutes and regulations, nor represent an exhaustive listing of all requirements applicable to this award. Rather, they are emphasized by inclusion here because they represent areas where issues were identified in the past.

1. The sponsor's signature on Form 9661, Cooperative Agreement, signifies the agreement to all terms and conditions.
2. The sponsor is obligated to provide management and technical direction for their program and adhere to the provisions established by this agreement.
3. The sponsor and any sub-recipient organizations must adopt and practice a non-discriminatory policy and practice a policy that meets all federal grant requirements.
4. Revisions to the Form 8653, Tax Counseling for the Elderly Program Application Plan, and the Program and Budget Plans must be submitted within twenty (20) calendar days from notification of award to the IRS Grant Program Office electronically and approved by IRS prior to funding being released. In addition, Form 9661, Cooperative Agreement and Form 13533, Sponsor Agreement are also due within 20 calendar days from notification of award as well. Subsequent changes to the budget between object class categories may be made without pre-approval when the change is 10% or less of the total award. Approval of changes greater than 10% must be requested in advance electronically and approved before the change may be made. The maximum award amount does not change.
5. The sponsor must notify IRS within ten (10) business days when changes in key personnel involved in the program occur. IRS will research the Excluded List System to ensure they are not debarred, suspended, or otherwise excluded from or ineligible for a federal award. You may check this yourself before hiring or designating a change by visiting the Excluded Parties List System at [www.epls.gov](http://www.epls.gov)
6. The sponsor must utilize the Payment Management System (PMS), Division of Payment Management, Health and Human Services, for withdrawal and reporting of fund expenditures. Advance funds may only be withdrawn for expenditures that will be incurred within three (3) business days of the receipt of the funds. Reimbursement funds may be withdrawn at anytime for allowable, allocable, and necessary expenditures already incurred. It is the responsibility of the sponsor to notify both the Grant Program Office and HHS with changes in the contact information or banking information for the PMS System.
7. **Timely responses and reporting is required as explained in the Grant Reporting Requirements. The submission of all requested information, as well as timely and accurate reports, is required for future consideration for subsequent year grants.** Extensions for providing the requested information and filing the reports will only be granted in unusual circumstances and only for information or reports due to the Grant Program Office. Recipients may request an extension but it must be submitted in writing at least five (5) business days prior to the due date and the grantee must receive written response confirming the extension **before the due date**. The Grant Program Office cannot grant extensions for Payment Management System or sub-award reporting.
8. Financial systems must provide for the identification of the source of and application of funds for the TCE Program. Sponsors must maintain documentation of TCE expenditures for a minimum period of three (3) years from the end of the program.
9. Federal funds may not be used to pay individuals for the preparation of returns, quality review and/or screening taxpayers. Funds may be used for individuals providing technical support, clerical support, and administrative support for the TCE program and sponsors must document their time accordingly to ensure they are paid for their support.

10. The sponsor must notify the Grant Program Office of any cash sub-awards of \$1,000 or more. Notification must be within 30 days of the sub-award and include the entity name, DUNS number, and amount of award. Recipients are not required to report non-cash sub-awards to the Grant Program Office, such as when the grantee purchases supplies for the entity. Sub-awards involving both cash and non-cash only need to be reported if the cash award is \$1,000 or greater.
11. The sponsor must notify the Grant Program Office of related party transactions using grant funds within thirty (30) days of the transaction and include the entity name and an explanation of the transaction and relationship. A related party transaction is one in which one party is able to control or substantially influence the actions of the other. Such transactions include, but are not limited to buyer/vendor transactions, lessee/lessor agreements, and client/consultant arrangements. They generally occur between entities under common control through officers, directors, or members; and an organization and a director, trustee, officer, or key employee of the organization or his immediate family.
12. At this time, Federal law prohibits the IRS and all recipients of TCE funds from providing fiscal year 2012 funds to the Association of Community Organizations for Reform Now (ACORN) or any of its affiliates, subsidiaries, or allied organizations as sub-grantees, subcontractors or other sub-recipients. Consolidated Appropriations Act, 2012, Pub. L. No. 112-74, Division D, Title V, § 567 (Dec. 23, 2011). This prohibition may be lifted by fiscal year 2013 appropriations. Contact the Grant Program Office for up-to-date information about this prohibition.
13. The sponsor and any sub-recipient organizations must utilize Form 13614-C, *Intake/Interview & Quality Review Sheet* at sites or activities where federal returns are prepared.
14. The sponsor and any sub-recipient organizations must adhere to all Quality Site Requirements as explained in the Publication 1084, *IRS Volunteer Site Coordinator's Handbook*.
15. The sponsor agrees to remain tax compliant (file all required federal returns and information reporting documents and pay all federal taxes) during the period of this grant. Any finding or allegation of tax noncompliance may result in the immediate termination of the grant and/or impact eligibility for future funding.
16. It is the intention that all sponsoring organizations electronically file all eligible returns. It is a goal for the TCE program that at least sixty five percent of all electronically filed returns completed are for taxpayers aged 60+. Organizations not meeting this goal may impact their consideration during the subsequent year grant application period.
17. The sponsor must have a valid Dun & Bradstreet Number System (DUNS) number and maintain current registration in the Central Contractor Registration (CCR) database.
18. IRS may terminate this agreement for reasons of default or failure of the sponsor to perform their obligations under this agreement, as well as for malfeasance, illegal conduct, and/or management practices by the sponsor that jeopardize the ethical operations and implementation of this agreement. In any of the above cases, IRS will notify the sponsor in writing of its intent to terminate the agreement and the causes for such a decision. IRS will provide seven (7) days for the sponsor to respond in writing.
19. The sponsor agrees to comply with the requirements included in the addendum to these terms and conditions.
20. **GRANT REPORTING REQUIREMENTS** – The sponsor is responsible for ensuring reports are timely and accurately filed throughout the grant period and until close out of the grant. The following reports and reporting dates apply to the TCE Grant.

Item	Description	Method	Period	Due Date
1.	<b>Grant Notification</b> – In order to establish and fund the grant certain actions must be completed in a timely manner. The grant notification package provides a list of items that must be completed and returned.	Due to IRS	Annually upon notification of grant award	Within 20 days of grant notification
2.	<b>Federal Financial Report (FFR) Cash Transaction Report</b> (Standard Form 425). This report is used for reporting quarterly and final period financial information. Quarterly reports are due within 30 days of end of the quarter. Once all funds are expended and the corresponding FFR completed, future quarterly reporting is not required.	<ul style="list-style-type: none"> <li>File electronically through the DPM</li> <li>Fax copy to DP</li> <li>Fax or email copy to IRS</li> </ul>	Quarterly once funds are deposited in PMS account	1/30 4/30 7/30 10/30
3.	<b>Site Establishment Report</b> – List of all sites opened or planned to open under the grant.	Due to IRS SPEC Territory Office; Report on Form 13715	Filing Season	1/16
4.	<b>Volunteer Agreement</b> – All volunteers must agree to the established standards of conduct and sign prior to assisting at the TCE site.	Maintain at the site or Partner level; Report on Form 13615	Filing Season	Prior to providing assistance at TCE Site
5.	<b>Volunteer Assistance Summary</b> – All partners/site coordinators must provide a list of all volunteers working at a TCE site, the dates the volunteers received certification and their level of training.	Due to IRS SPEC Territory Office; Report on Form 13206	Filing Season	3 <sup>rd</sup> business day after end of each month
6.	<b>Sub-award Reporting</b> – See Terms and Conditions Addendum for a full explanation of when this reporting applies to your organization. Applicability includes consideration of award amount and existing reporting of executive compensation.	File electronically at <a href="http://www.fsr.gov">www.fsr.gov</a> and <a href="http://www.ccr.gov">www.ccr.gov</a>	Upon sub-award of funds meeting described conditions	By the end of the month following the month during which you make the Sub-award
7.	<b>Form 8654, Tax Counseling for the Elderly Program Semi-Annual/Annual Program Report</b> – Preliminary Report & Narrative (Due <b>ONLY</b> if program is in operation after April 30 <sup>th</sup> ; otherwise see Number 9 below)	Due to IRS – TCE Grant Program Office	10/01– 5/31	6/30
8.	<b>Unused Funds Notification</b> – Provide IRS with confirmation that all funds awarded will be utilized; if not, provide amount that can be released.	Due to IRS	Annually	6/30
9.	<b>Form 8654, Tax Counseling for the Elderly Program Semi-Annual/Annual Program Report – Final Narrative</b> . This is the final report and covers the entire grant period (10/01 – end of program). It is due 90 days after completion of your program.	Due to IRS – TCE Grant Program Office	10/01– end of program	90 days after grant period ends

Information due to the IRS must be submitted electronically (unless otherwise directed) to the grant analyst assigned responsibility for your grant. Due to size restrictions in our email system, the grant sponsor is responsible for confirming the receipt of electronic messages with attachments.

## TCE TERMS AND CONDITIONS ADDENDUM

### I. Reporting Subawards and Executive Compensation.

#### a. Reporting of first-tier subawards.

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

#### b. Reporting Total Compensation of Recipient Executives.

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

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

1. Applicability and what to report. Unless you are exempt as provided in paragraph d. of this award term, for each first-tier subrecipient under this award, you shall report the names and total compensation of each of the subrecipient's five most highly compensated executives for the subrecipient's preceding completed fiscal year, if—
  - i. in the subrecipient's preceding fiscal year, the subrecipient received—
    - (A) 80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
    - (B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal financial assistance subject to the Transparency Act (and subawards); and

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- ii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at [www.sec.gov/answers/execomp.htm](http://www.sec.gov/answers/execomp.htm).)
  2. Where and when to report. You must report subrecipient executive total compensation described in paragraph c.1. of this award term:
    - i. To the recipient.
    - ii. By the end of the month following the month during which you make the subaward. For example, if a subaward is obligated on any date during the month of October of a given year (i.e., between October 1 and 31), you must report any required compensation information of the subrecipient by November 30 of that year.
- d. Exemptions
- If, in the previous tax year, you had gross income, from all sources, under \$300,000, you are exempt from the requirements to report:
- i. Subawards,  
and
  - ii. The total compensation of the five most highly compensated executives of any subrecipient.
- e. Definitions. For purposes of this award term:
1. Entity means all of the following, as defined in 2 CFR part 25:
    - i. A Governmental organization, which is a State, local government, or Indian tribe;
    - ii. A foreign public entity;
    - iii. A domestic or foreign nonprofit organization;
    - iv. A domestic or foreign for-profit organization;
    - v. A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.
  2. Executive means officers, managing partners, or any other employees in management positions.
  3. Subaward:
    - i. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.
    - ii. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see Sec. \_\_\_ .210 of the attachment to OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations").
    - iii. A subaward may be provided through any legal agreement, including an agreement that you or a subrecipient considers a contract.
  4. Subrecipient means an entity that:
    - i. Receives a subaward from you (the recipient) under this award; and
    - ii. Is accountable to you for the use of the Federal funds provided by the subaward.
  5. Total compensation means the cash and noncash dollar value earned by the executive during the recipient's or subrecipient's preceding fiscal year and includes the following (for more information see 17 CFR 229.402(c)(2)):
    - i. Salary and bonus.
    - ii. Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.

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- iii. Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.
- iv. Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.
- v. Above-market earnings on deferred compensation which is not tax-qualified.
- vi. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.

### II. Central Contractor Registration and Universal Identifier Requirements

- a. Requirement for Central Contractor Registration (CCR) Unless you are exempted from this requirement under 2 CFR 25.110, you as the recipient must maintain the currency of your information in the CCR until you submit the final financial report required under this award or receive the final payment, whichever is later. This requires that you review and update the information at least annually after the initial registration, and more frequently if required by changes in your information or another award term.
- b. Requirement for Data Universal Numbering System (DUNS) Numbers  
If you are authorized to make subawards under this award, you:
  1. Must notify potential subrecipients that no entity (see definition in paragraph c of this award term) may receive a subaward from you unless the entity has provided its DUNS number to you.
  2. May not make a subaward to an entity unless the entity has provided its DUNS number to you.
- c. Definitions – For purposes of this award term:
  1. Central Contractor Registration (CCR) means the Federal repository into which an entity must provide information required for the conduct of business as a recipient. Additional information about registration procedures may be found at the CCR Internet site (currently at [www.ccr.gov](http://www.ccr.gov)).
  2. Data Universal Numbering System (DUNS) number means the nine-digit number established and assigned by Dun and Bradstreet, Inc. (D & B) to uniquely identify business entities. A DUNS number may be obtained from D & B by telephone (currently 866-705-5711) or the Internet (currently at [www.fedgov.dnb.com/webform](http://www.fedgov.dnb.com/webform)).
  3. Entity, as it is used in this award term, means all of the following, as defined at 2 CFR part 25, subpart C:
    - i. A Governmental organization, which is a State, local government, or Indian Tribe;
    - ii. A foreign public entity;
    - iii. A domestic or foreign nonprofit organization;
    - iv. A domestic or foreign for-profit organization; and
    - v. A Federal agency, but only as a subrecipient under an award or subaward to non-Federal entity.
  4. Subaward:
    - i. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.
    - ii. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see Sec. \_\_\_\_ .210 of the attachment to OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations").
    - iii. A subaward may be provided through any legal agreement, including an agreement that you consider a contract.
  5. Subrecipient means an entity that:
    - i. Receives a subaward from you under this award; and
    - ii. Is accountable to you for the use of the Federal funds provided by the subaward.

### III. Trafficking Victims Protection Act of 2000

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

1. You as the recipient, your employees, subrecipients under this award, and subrecipients' employees may not—
  - i. Engage in severe forms of trafficking in persons during the period of time that the award is in effect;
  - ii. Procure a commercial sex act during the period of time that the award is in effect; or
  - iii. Use forced labor in the performance of the award or subawards under the award.
2. We as the Federal awarding agency may unilaterally terminate this award, without penalty, if you or a subrecipient that is a private entity—
  - i. Is determined to have violated a prohibition in paragraph a.1 of this award term; or
  - ii. Has an employee who is determined by the agency official authorized to terminate the award to have violated a prohibition in paragraph a.1 of this award term through conduct that is either—
    - A. Associated with performance under this award; or
    - B. Imputed to you or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, “OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” as implemented by our agency at [agency must insert reference here to its regulatory implementation of the OMB guidelines in 2 CFR part 180 (e.g., “2 CFR part XX”)].
  1. Is determined to have violated an applicable prohibition in paragraph a.1 of this award term; or
  2. Has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in paragraph a.1 of this award term through conduct that is either—

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

- i. Associated with performance under this award; or
- ii. Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, “OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” as implemented by our agency at [agency must insert reference here to its regulatory implementation of the OMB guidelines in 2 CFR part 180 (e.g., “2 CFR part XX”)].

c. *Provisions applicable to any recipient .*

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

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

1. “Employee” means either:
  - i. An individual employed by you or a subrecipient who is engaged in the performance of the project or program under this award; or
  - ii. Another person engaged in the performance of the project or program under this award and not compensated by you including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.



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2. "Forced labor" means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.
3. "Private entity":
  - i. Means any entity other than a State, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 CFR 175.25.
  - ii. Includes:
    - A. A nonprofit organization, including any nonprofit institution of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe at 2 CFR 175.25(b).
    - B. A for-profit organization.
4. "Severe forms of trafficking in persons," "commercial sex act," and "coercion" have the meanings given at section 103 of the TVPA, as amended (22 U.S.C. 7102).
  - (c) An agency may use different letters and numbers to designate the paragraphs of the award term in paragraph (b) of this section, if necessary, to conform the system of paragraph designations with the one used in other terms and conditions in the agency's awards