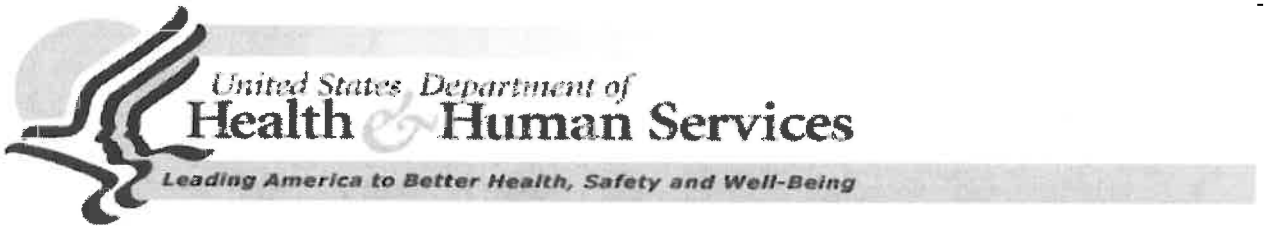

ADMINISTRATION FOR CHILDREN AND FAMILIES

OFFICE OF FAMILY ASSISTANCE

TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) PROGRAM GRANT

TERMS AND CONDITIONS for STATES AND TERRITORIES

FISCAL YEAR 2009

October 1, 2008 – September 30, 2009

By acceptance of this award, the State or Territory agrees to comply with the terms and conditions detailed below. Failure to comply with these terms and conditions may result in the loss of Federal funds and may be considered grounds for the suspension or termination of this grant.

This award is subject to the following terms, conditions and provisions:

PROGRAM STANDARDS

1. Applicable program standards include **Title IV-A of the Social Security Act, Title IV of PRWORA of 1996, as amended (8 U.S.C. 1611 et seq.),** and the TANF regulations at **45 CFR Parts 260 to 284.** Administrative requirements are identified below.

ADMINISTRATIVE REQUIREMENTS

2. The following regulations from Title 45 of the Code of Federal Regulations (CFR):

   45 CFR Part 16 – Procedures of the Departmental Grant Appeals Board;
   45 CFR Part 76 – Debarment and Suspension from Eligibility for Financial Assistance (Nonprocurement);
   45 CFR Part 80 - Nondiscrimination Under Programs Receiving Federal Assistance through the Department of Health and Human Services, Effectuation of Title VI of the Civil Rights Act of 1964;
   45 CFR Part 81 - Practice and Procedure for Hearings Under Part 80 of this Title;
   45 CFR Part 84 - Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving Federal Financial Assistance;
   45 CFR Part 86 – Nondiscrimination on the Basis of Sex in Education Programs and Activities Receiving or Benefiting from Federal Financial Assistance;
   45 CFR Part 91 – Nondiscrimination on the Basis of Age in HHS Programs or Activities Receiving Federal Financial Assistance;
   45 CFR Part 92 – Uniform Administrative Requirements for Grants and Cooperative Agreements to State, and Local, and Tribal Governments
   45 CFR Part 93 – New Restrictions on Lobbying;
   45 CFR Part 95 – General Administration – Grants Programs (Public Assistance, Medical Assistance and State Children's Health Insurance Programs.

3. The following Circulars from the Office of Management and Budget (OMB):

   OMB Circular A-87, Cost Principles for State, Local and Indian Tribal Governments
   OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations and the **Single Audit Act of 1984,** as amended.

4. Federal grant funds provided under this award may not be used by the grantee or any sub-grantee to support lobbying activities to influence proposed or pending Federal or State legislation or appropriations. This prohibition is related to the use of Federal grant funds and is not intended to affect an individual's right or that of any organization, to petition Congress, or any other level of Government, through the use of other resources. (See 45 CFR Part 93.)

5. In accordance with Public Law 103-333, the "Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act of 1995," the following provisions are applicable to this grant award:

   Section 507: "Purchase of American-Made Equipment and Products - It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made."

6. In accordance with Part C of Public Law 103-227, the "Pro-Children Act of 1994," smoking may not be permitted in any portion of any indoor facility owned or regularly used for the provision of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs whether directly or through State or local governments. Federal programs include grants, cooperative agreements, loans and loan guarantees, and contracts. The law does not apply to children's services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions or facilities and used for inpatient drug and alcohol treatment.

   The above language must be included in any subawards that contain provisions for children's services and that all Subgrantees shall certify compliance accordingly. Failure to comply with the provisions of this law may result in the imposition of a civil monetary penalty of up to $1,000 per day.

7. This award is subject to the requirements listed in the enclosed terms and conditions. This award is subject to the requirements of Section 106 (g) of the Trafficking Victims Protection Act of 2000, as amended (22 U.S.C. 7104). For the full text of the award term, go to: http://www.acf.hhs.gov/grants/award_term.html. The use of Federal funds from this award constitutes the State's acceptance of these terms and conditions.

SUB-RECIPIENTS AND VENDORS UNDER GRANTS

Sub-Recipients/Sub-Grantees and Vendors/Contractors

8. **Sub-recipient/Sub-grantee and vendor determinations.** States and Territories are required to determine recipient type when sub-granting or contracting using Federal funds. Recipient type includes sub-grantees/sub-recipients, vendors and contractors. OMB Circular A-133 establishes the standards for determining the difference between a sub-grantee and a vendor, based on the substance of the relationship with the State or Territory, rather than the form of the agreement.

   A recipient is considered a ***sub-grantee*** and is subject to OMB Circular A-133 if it meets the following conditions:

   a. Determines who is eligible to receive what Federal financial assistance;
   b. Has its performance measured against whether the objectives of the Federal program are met;
   c. Has responsibility for programmatic decision making;
   d. Has responsibility for adherence to applicable Federal program compliance requirements;
   e. Uses the Federal funds to carry out a program of the organization as compared to providing goods or services for a program of the pass-through entity;

A recipient is considered a *vendor* and is not subject to OMB Circular A-133 if it meets the following conditions:

a. Provides the goods and services within normal business operations;
b. Provides similar goods or services to many different purchasers;
c. Operates in a competitive environment;
d. Provides goods or services that are ancillary to the operation of the Federal program;
e. Is not subject to compliance requirements of the Federal program.

9. No organization may participate in this project in any capacity or be a recipient of Federal funds designated for this project if the organization has been debarred or suspended or otherwise found to be ineligible for participation in Federal assistance programs under Executive Order 12549, "Debarment and Suspension." (See 45 CFR 92.35.) States and Territories must include a similar term and/or condition for all sub-awards or contracts awarded under this program. Prior to issuing subawards or contracts under this grant, the state must consult the ineligible parties list to ensure that organizations under funding consideration are not ineligible. The list is available on the Web at http://www.epls.gov.

10. The State or Territory is responsible for monitoring grant, sub-grant/sub-recipient and contract supported activities to assure compliance with Federal requirements and that performance goals are being achieved. Grantee monitoring must cover each program, function and activity. (See 45 CFR 92.40.)

11. States and Territories are required to advise sub-grantees/sub-recipients of requirements imposed on them by Federal laws, regulations, and the provisions of grant agreements or contracts as well as any supplemental requirements imposed by the recipient government. These include grant administrative requirements and cost principles according to recipient type. For example, nonprofit subrecipients are subject to the cost principles at OMB Circular A-122; educational institution subrecipients are subject to those at OMB Circular A-21; and commercial organization vendors or subcontractors are subject to the cost principles under 48 CFR Part 31. Sub-recipients and sub-grantees are also subject to the provisions of 45 CFR Part 92 and OMB Circular A-133.

12. States and Territories must ensure that sub-recipients and sub-grantees expending more than $500,000 or more in Federal awards during the sub-recipient/sub-grantee's fiscal year have an audit in compliance with the requirements of OMB Circular A-133.

FINANCIAL AND PROGRAM PROGRESS REPORTING

13. In accordance with 45 CFR Part 265, the grantee must submit quarterly data collection (TANF Data Report) and financial status reports (TANF or Territorial Financial Reports, ACF-196 or ACF-196 T). **The financial reports are due within 45 days following the end of each federal fiscal quarter and must show cumulative expenditures. Grantees must submit separate quarterly reports for each funding year.**

14. Failure to submit required data, financial status or audit reports timely may be the basis for a penalty, pursuant to section 409 (a)(2) of the Social Security Act and implementing regulations in 45 CFR 265.

15. The State may transfer TANF funds to the CCDF and SSBG programs only during the year for which the TANF funds were awarded. Transfers of unobligated previous year TANF balances to CCDF and SSBG have been prohibited since October 1, 1999. Funds transfer limits are pursuant to Section 404(d) of the Social Security Act. The limits are explained in the instructions for completing the TANF ACF-196 and the TANF ACF-196-TR.

16. In accordance with 45 CFR 265.6, program data and financial status reports must be submitted electronically. States and Territories should submit these reports through the ACF On-Line Data Collection (OLDC) system.

17. Pursuant to section 404(e) of the Social Security Act, a State or Territory may reserve amounts awarded under section 403, without fiscal year limitation, to provide assistance under the TANF program. Any Federal Unobligated Balances carried forward into fiscal year 2009 from previous fiscal years may only be expended on assistance and related administrative costs associated with providing such assistance. The related Administrative Costs to provide the assistance will be reported against the State or Territory administrative cost cap (45 CFR 263.13) for the fiscal year for which the Federal funds were originally awarded.

18. The State or Territory must obligate by September 30 of the current fiscal year any funds for Expenditures on Non-Assistance. The State or Territory must liquidate these obligations by September 30 of the fiscal year following the year for which the funds were awarded. If the final liquidation amounts are lower than the original amounts obligated, these funds must be included in the Unobligated Balance for the year in which they were awarded. As indicated, unobligated balances from previous fiscal years may only be expended on assistance and the administrative costs related to providing the assistance.

PAYMENT ARRANGEMENTS, FUNDS AVAILABILITY AND RESTRICTIONS

19. Payments under this grant will be made through the Department of Health and Human Services' Division of Payment Management ***SmartLink*** Payment System. The State or Territory must comply with requirements imposed by the on-line system. Please direct any questions concerning grant payments to the payment office at 1-877-614-5533.

20. Grantees shall be paid in advance provided they maintain or demonstrate the willingness and ability to maintain procedures to minimize the time elapsing between the transfer of funds and their disbursement by the grantee or subgrantee. (See 45 CFR 92.21(c).)

21. These funds may not be used to meet the matching or cost-sharing requirements of other Federal grant programs unless expressly authorized by Federal law.

22. Federal funds awarded under this grant may not be used for construction or the purchase of land.

NOTE: The U.S. Government Accountability Office (GAO) maintains **FraudNET**, a system for reporting allegations of fraud, waste and abuse under Federal grants and cooperative agreements. Reports are kept confidential; you need not provide your name. Information provided through the Internet web site is secure and all information is safeguarded against unauthorized disclosure.

To report the possible misuse of federal funds, the E-mail address is fraudnet@gao.gov ; the fax number is 202-512-3086 and the mailing address is GAO **FraudNET**, 441 G Street N.W., Washington, D.C. 20548. When you submit allegations, please provide as much detailed information as possible.