United States Department of Health & Human Services

Leading America to Better Health, Safety and Well-Being

ADMINISTRATION FOR CHILDREN AND FAMILIES

OFFICE OF FAMILY ASSISTANCE

TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) PROGRAM GRANT

TANF EMERGENCY FUNDS

TERMS AND CONDITIONS for STATES AND TERRITORIES

FISCAL YEAR 2009

October 1, 2008 – September 30, 2009

These terms and conditions apply to the Emergency Fund for the TANF Program in section 403(c) of the Social Security Act, established by section 2101 of the American Recovery and Reinvestment Act of 2009 (Recovery Act), Public Law 111-5. 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 (42 U.S.C. 601, et seq.), 8 U.S.C. 1611 et seq. (eligibility of non-citizens for welfare and other benefits), Recovery Act of 2009, and the TANF regulations at 45 CFR Parts 260 to 284.

   Administrative requirements are identified below.

ADMINISTRATIVE REQUIREMENTS

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

   2 CFR Part 376 – Debarment and Suspension from Eligibility for Financial Assistance (Nonprocurement);
   45 CFR Part 16 – Procedures of the Departmental Grant Appeals Board;
   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 82 – Government Requirements for Drug-Free Workplace (Financial Assistance);
   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 87 – Equal Treatment for Faith-Based Organizations;
   45 CFR Part 91 – Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance from HHS;
   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, Subpart E – General Administration – Grants Programs (Public Assistance, Medical Assistance and State Children's Health Insurance Programs. (see Cost Allocations).

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

   OMB Circular A-87 (2 CFR Part 225), 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 Title X 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 of the Trafficking Victims Protection Act of 2000, as amended, 22 U.S.C. 7104(g). For the full text of the award term, go to: http://www.acf.hhs.gov/grants/award_term.html. This award is also subject to the requirement in section 1244(g) of the National Defense Authorization Act for or Fiscal Year 2008 (Public Law 110-188) regarding treatment of Iraqi aliens granted special immigrant status and the requirement in the Afghan Allies Protection Act in title VI, section 602(b)(8) of Division F of the Omnibus Appropriations Act of 2009 (Public Law 111-8) regarding treatment of Afghan aliens granted special immigrant status. The use of Federal funds from this award constitutes the State's or Territory's acceptance of these terms and conditions.

8. Further, in accordance with Department of Treasury regulations 31 CFR Part 205, implementing the Cash Management Improvement Act, you agree to limit your request to draw Federal funds to the minimum amount needed and to time the request in accordance with the actual, immediate

requirements in carrying out programs funded through this award. Failure to adhere to these requirements may cause the suspension of grant funds.

SUB-RECIPIENTS AND VENDORS UNDER GRANTS

9. **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; and
   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; and
   e. Is not subject to compliance requirements of the Federal program.

10. 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.) The State or Territory 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.

11. 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.)

12. The State or Territory must 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 sub-recipients are subject to the cost principles at OMB Circular A-122; educational institution sub-

recipients 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.

13. The State or Territory 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.

14. As provided under OMB Circular A-133, all State and Territorial grantees that expend more than $500,000 a year must obtain an annual audit in accordance with the Single Audit Act as amended in 1996. Auditors use the OMB A-133 Compliance Supplement Parts 1 through 4 when performing the required audits. Part 4 includes the Compliance Supplement for the TANF Program. The Compliance supplement provides guidance on internal program controls, compliance requirements, suggested audit procedures and audit reporting requirements.

FINANCIAL AND PROGRAM PROGRESS REPORTING

15. The State or Territory must report quarterly on their expenditures of emergency funds. The ACF-196 (State Financial Report) and the ACF-196TR (Territorial Financial Reporting Form, as well as the ACF On-Line Data Collection System (OLDC)) have been modified for reporting Recovery Act expenditures.

16. 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.

17. The State or Territory may **not** transfer TANF emergency funds to either the Child Care and Development Block Grant program or the Social Services Block Grant Program.

18. In accordance with 45 CFR 265.6, program data and financial status reports must be submitted electronically. The State or Territory must submit these reports through the ACF On-Line Data Collection (OLDC) system.

19. The State or Territory in each Emergency Fund reporting period must update the data used to determine its eligibility for emergency funds until the data are final.

PAYMENT ARRANGEMENTS, FUNDS AVAILABILITY AND RESTRICTIONS

20. 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.

21. 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).)

22. 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.

23. 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.