United States Department of Health & Human Services

Leading America to Better Health, Safety and Well-Being

ADMINISTRATION FOR CHILDREN AND FAMILIES

ADMINISTRATION ON CHILDREN, YOUTH AND FAMILIES

PROMOTING SAFE AND STABLE FAMILIES

TERMS AND CONDITIONS

FISCAL YEAR 2010

By acceptance of this award, the State, Territory or Tribe 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. The provisions of Title IV-B, Subpart 2 of the Social Security Act and the provisions of the current approved Child and Family Services State plan, including all approved amendments or revisions.

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 30 – Claims Collection;
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 87 – Equal Treatment for Faith-Based Organizations;
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 97 – Consolidation of Grants to the Insular Areas
45 CFR Part 100 – Intergovernmental Review of Department of Health and Human Services Programs and Activities.
45 CFR Part 1355 – General
45 CFR Part 1357 – Requirements Applicable to Child and Family Services State Plans

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 funds awarded under this grant must be matched at 25% of the total expenditures. The non-Federal share is subject to the same rules of allowability, reasonableness and necessity that apply to the Federal share. The non-Federal share must be accounted for on the financial status report (SF-269A).

5. Direct Federal grants, sub-awards, or contracts under this program shall not be used to support inherently religious activities such as religious instruction, worship, or proselytization. Therefore, organizations must take steps to separate, in time or location, their inherently religious activities from the services funded under this program. Regulations pertaining to the prohibition of Federal funds for inherently religious activities can be found on the HHS website at: http://www.os.dhhs.gov/fbci/waisgate21.pdf.

6. 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.)

7. 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."

   Section 508: "When issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with Federal money, all States receiving Federal funds, including but not limited to State and local governments and recipients of Federal research grants, shall clearly state (1) the percentage of the total costs of the program or project which will be financed with Federal money, (2) the dollar amount of Federal funds for the project or program, and (3) percentage and dollar amount of the total costs of the project or program that will be financed by nongovernmental sources."

8. 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 leased or contracted by an entity and used regularly 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 of facilities 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.

9. 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

10. **Sub-recipient/Sub-grantee and vendor determinations.** States 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, 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.

11. 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 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.

12. The State 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.)

13. States 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 State. 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.

14. States 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

15. In accordance with 45 CFR 92.41 the grantee must submit an annual Financial Status Report, using Standard Form 269A, within 90 days of the end of each 12 months of the two-year expenditure period. **The grantee must report the required 25 percent match of total outlays on the final report required at the end of the expenditure period.** The grantee must liquidate all obligations incurred under this award not later than 90 days after the end of the funding period (September 30, 2010).

16. In accordance with Action Transmittal OA–ACF–AT–01-05 (January 25, 2005), in lieu of paper copies, States are encouraged to submit their periodic financial reporting forms electronically, via the ACF On-Line Data Collection (OLDC) system. The Web address is https://extranet.acf.hhs.gov/oldcdocs/materials.html.

    States that elect to submit these reports in writing must send an original signature copy of Form SF 269A to:

    Administration for Children and Families
    Division of Mandatory Grants
    370 L'Enfant Promenade, SW - 4th Floor East
    Washington, DC 20447

    and a copy to the cognizant ACF Regional Office.

17. Grantees must submit an Annual Progress and Service Report, as required under 45 CFR 1357, by June 30th of each year. These reports must provide information on accomplishments and progress made in the previous fiscal year, and provide updates on program areas selected for improvement and other activities for the next fiscal year. The annual report must be submitted to the cognizant ACF Regional Office.

18. A negative grant award will be issued to recoup unobligated and/or unliquidated balances reported on the Final SF-269A. Failure to submit financial and progress reports on time may be a basis for withholding financial payments, or the suspension or termination of the grant.

PAYMENT ARRANGEMENTS

19. Payments under this grant will be made through the Division of Payment Management's *Smartlink* Payment System. The grantee shall comply with requirements imposed by the system. Direct any questions regarding payments to:

Director
Payment Management System
P. O. Box 6021
Rockville, MD 20852
1-877-614-5533

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.