

GENERAL TERMS AND CONDITIONS

ARTICLE 1. REVIEW

Liaison with the Department shall be through the Administrator of the Division of Housing and Community Development or person designated by the Administrator, who shall represent the Department's interest in review of quality, quantity, rate of progress, timeliness of services, and related considerations as outlined in this Agreement.

ARTICLE 2. APPLICABLE LAW

This Agreement shall be governed under the laws of the State of Wisconsin and the United States. Where applicable, the Grantee shall comply with local laws and ordinances.

ARTICLE 3. IDENTIFICATION AND AVAILABILITY OF FUNDS

The source of program funding for this Agreement is described in the ATTACHMENTS.

Continuation of this Agreement beyond the limits of funds available shall be contingent upon appropriation of the necessary funds. Termination of this Agreement for lack of appropriations shall be without penalty.

ARTICLE 4. SURVIVAL OF REQUIREMENTS

Unless otherwise authorized in writing by the Department, the terms and conditions of this Agreement shall survive the performance period and shall continue in full force and effect until the Grantee has completed and is in compliance with all the requirements of this Agreement.

ARTICLE 5. PERIOD OF PERFORMANCE AND NOTICES

Except for Survival Requirements (ARTICLE 4), the Performance Period is the term of this Agreement. The Period of Performance under this Agreement is as defined in the ATTACHMENTS.

All notices, demands, or requests under this Agreement shall be in writing to the addresses listed in the ATTACHMENTS.

ARTICLE 6. OBJECTIVES/SCOPE OF WORK

The eligible activities under this Agreement are summarized in the ATTACHMENTS. In the event of a conflict between the summary in the ATTACHMENTS and the application and/or other supporting documents previously submitted to the Department by the Grantee, the ATTACHMENTS shall control.

The Grantee shall supply all necessary personnel, equipment, and materials (except as may be otherwise provided herein) to accomplish the eligible activities set forth in the ATTACHMENTS. The Grantee shall provide the services in accordance with applicable professional standards.

ARTICLE 7. SUBCONTRACTS/ASSIGNMENTS

The Grantee shall not assign or subcontract all or any part of the administrative work under this Agreement without prior written notification to the Department. The Department reserves the right to reject any subgrantee after notification. The Grantee must provide the Department with a copy of any executed subcontract or accepted subgrantee bid for the purpose of administering this Agreement that relates to activities funded under this Agreement. The Grantee shall be responsible for all matters involving any subgrantee engaged under this Agreement, including Agreement compliance, performance, and dispute

resolution between itself and a subgrantee. The Department bears no responsibility for subgrantee compliance, performance, or dispute resolution hereunder.

ARTICLE 8. REPORTING

The Grantee shall submit all required reports to the Department in a complete and timely manner according to the schedule set forth in the ATTACHMENTS, and shall comply with all other applicable regulations.

ARTICLE 9. FAILURE TO PERFORM

The Department reserves the right to suspend payment of funds, in whole or part, if any required report is not timely provided to the Department upon request or as required under any provision of this Agreement, or if the Grantee has not complied with the terms of this Agreement. The Department further reserves the right to suspend payment of funds under this Agreement if there are deficiencies related to the required reports or if performance of contracted activities is not evidenced on other Agreements between the Department and the Grantee in whole or in part.

The Grantee's management and financial capability including, but not limited to, audit results and performance, may be taken into consideration in any or all future determinations by the Department and may be a factor in a decision to withhold payment and may be cause for termination of this Agreement.

ARTICLE 10. TERMINATION OF AGREEMENT FOR CAUSE

The Department reserves the right to terminate this Agreement in whole or in part without penalty effective upon mailing of notice of cancellation for failure of the Grantee to comply with the terms and conditions of this Agreement.

ARTICLE 11. TERMINATION OF AGREEMENT

Notwithstanding and in addition to the right to terminate the Agreement in Article 10 above, the Department may terminate this Agreement at any time at its discretion by delivering written notice to the Grantee by Certified Mail, Return Receipt Requested, not less than thirty (30) days prior to the effective date of termination. Date of receipt as indicated on the Return Receipt shall be the effective date of notice of termination. Upon termination, the Department's liability shall be limited to the actual costs incurred in carrying out the project as of the date of termination plus any termination expenses having prior written approval of the Department. The Grantee may terminate this Agreement by delivering written notice to the Department by Certified Mail, Return Receipt Requested, not less than thirty (30) days prior to termination. Date of receipt as indicated on the Return Receipt shall be the effective date of notice of termination. In the event the Agreement is terminated by either party, for any reason whatsoever, the Grantee shall refund to the Department within forty-five (45) days of the effective date of notice of termination any payment made by the Department to the Grantee which exceeds actual costs incurred in carrying out the project as of the date of termination.

ARTICLE 12. LEGAL RELATIONS AND INDEMNIFICATION

The Grantee shall at all times comply with and observe all applicable federal and state laws, ordinances, and regulations which are in effect during the performance period of this Agreement and which in any manner affect the Grantee's work or conduct.

The Grantee shall indemnify and hold harmless the State and all of its officers, agents, and employees for all suits, actions, or claims of any character brought for or as a result of any injuries or damages received by any persons or property resulting from the operations of the Grantee, or any of its subgrantees, in prosecuting work under this Agreement. If Grantee is a federally recognized American Indian Tribe or

Band, or an Authority, this Article shall not be construed as a waiver of tribal sovereign immunity and local ordinances or regulations may not apply.

ARTICLE 13. CAPTIONS AND TERMS

The captions used in this Agreement are inserted only as a matter of convenience and for reference and in no way define, limit, or describe the scope or intent of this Agreement. Terms used but not specifically defined herein shall have the meaning defined by the Department.

ARTICLE 14. PARTIAL INVALIDITY OF AGREEMENT

Should any part, term, or provision of this Agreement be decided by a court of competent jurisdiction to be invalid, unenforceable, illegal, or in conflict with any law, the validity, legality, and enforceability of the remaining portions shall not be affected or impaired.

ARTICLE 15. AMENDMENT

Any amendment to this Agreement is at the discretion of the Department and must be by written amendment to this Agreement between the Department and the Grantee.

ARTICLE 16. SPECIAL CONDITIONS

Special Conditions incorporated as part of this Agreement are described in the ATTACHMENTS.

FISCAL TERMS AND CONDITIONS

ARTICLE 17. METHOD OF PAYMENT

Payments are to be used exclusively for expenses incurred during the Performance Period of this Agreement. Payments under this Agreement shall be made according to the schedule incorporated as part of this Agreement as the ATTACHMENTS.

Request for final payment of any and all funds awarded by this Agreement, including project and administrative funds, must be received by the Department or other appropriate governmental agency or entity within 60 days of the end of the Performance Period or termination of this Agreement unless otherwise specifically provided for in the ATTACHMENTS.

Costs incurred prior to the effective date of the Agreement whether or not they would have been allowable hereunder if incurred after such date are only allowable if specifically provided for in the ATTACHMENTS.

ARTICLE 18. VARIANCES

Variations may be permitted as set forth in the ATTACHMENTS. A variance shall not be used to authorize a revision of the amount awarded or a change in the performance period. Such changes must be made by an amendment to this Agreement.

ARTICLE 19. REIMBURSEMENT OF FUNDS

The Grantee shall return to the Department or other appropriate governmental agency or entity any funds paid to the Grantee in excess of the allowable costs of services provided under this Agreement. If the Grantee fails to return excess funds, the Department may deduct the appropriate amount from subsequent

payments due to the Grantee from the Department. The Department also reserves the right to recover such funds by any other legal means including litigation if necessary.

The Grantee shall be responsible for reimbursement to the Department for any disbursed funds, which are determined by the Department to have been misused or misappropriated. The Department may also require reimbursement of funds if the Department determines that any provision of this Agreement has been violated. Any reimbursement of funds which is required by the Department, with or without termination, shall be due within forty-five (45) days after giving written notice to the Grantee.

ARTICLE 20. LIMITED USE OF PROGRAM FUNDS

This Agreement is a mutually exclusive Agreement. The Grantee shall not apply funds authorized pursuant to other agreements under this Program toward the activities for which funding is authorized by this Agreement, nor shall funding authorized by this Agreement be used toward the activities authorized pursuant to other agreements under the Program. The word "funds" as used in this Article does not include Program Income.

ARTICLE 21. PROGRAM INCOME

Program Income means gross income received by the Grantee which is directly generated from the use of the Agreement award, including but not limited to repayments of funds that had been previously provided to eligible beneficiaries; interest earned on any or all contracted funds obtained from the Department; proceeds derived after Agreement close-out from the disposition of real property acquired with any or all funds provided under this Agreement or interest earned on Program Income pending its disposition. Program Income may be further described in the ATTACHMENTS.

The Grantee shall record all Program Income which shall be used in accordance with the rules and regulations of the Program funding source described in the ATTACHMENTS. If at any time changes in the use of Program Income are considered, the Grantee must submit a plan detailing the proposed uses of Program Income to the Department for approval. Should the Grantee decide following Agreement close out to discontinue using Program Income for such purposes, the Grantee further agrees to return the Program Income balance and any additional Program Income accrued to the Department by January 31 of the following year.

ARTICLE 22. FINANCIAL MANAGEMENT

The Grantee shall maintain a financial management system which complies with the rules and regulations required by the Program funding source described in the ATTACHMENTS and with standards established by the Department to assure funds are spent in accordance with law and to assure that accounting records for funds received under this Agreement are sufficiently segregated from other Agreements, programs, and/or projects.

ADMINISTRATIVE TERMS AND CONDITIONS

ARTICLE 23. PROCUREMENT

The Grantee shall conduct all procurement transactions, regardless of whether by sealed bids or by negotiation and without regard to dollar value of the transactions, in a manner that provides maximum open and free competition.

ARTICLE 24. CONFLICT OF INTEREST

No person who is an employee, agent, consultant or officer of the Grantee, or an elected or appointed official, and who exercises or has exercised any functions or responsibilities with respect to activities supported by and described in this Agreement, or who is in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a personal or financial interest or benefit from the activity, or have an interest in any Agreement, subcontract, or Agreement with respect thereto or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure. Receipt of earnings from the Grantee by employees of the Grantee shall not be considered a conflict of interest, but otherwise employees of the Grantee shall be fully bound by the requirements of this Article. Upon request, the Department can make exceptions to this requirement after full disclosure and where the Department determines, in consultation with federal agencies if necessary, that such exception is in the best interests of the State and is not contrary to state or federal laws.

ARTICLE 25. BONDING AND INSURANCE

Unless authorized otherwise by the Department, the Grantee shall provide either insurance, fidelity, or surety bonds in amounts sufficient, in the opinion of the Department, to safeguard Agreement funds and activities undertaken with Agreement funds and program income expended under this Agreement.

The Grantee shall establish and maintain in a state or federally insured financial institution an account for the purpose of receiving and disbursing all funds pertaining to this Agreement.

ARTICLE 26. PUBLICATIONS

The Department shall retain ownership of all materials produced under this Agreement. The Department grants to the Grantee royalty-free, non-exclusive, and irrevocable license to reproduce, publish, otherwise use, or authorize others to use such printed materials. All printed materials funded in whole or in part under this Agreement must contain the following statement.

"This publication and/or the activities described herein were funded by the
State of Wisconsin, Department of Commerce, Division of Housing and Community Development."

ARTICLE 27. RECORD KEEPING AND CONFIDENTIALITY

The Grantee shall establish a record keeping system that conforms to the rules and regulations required by the Program funding source described in the ATTACHMENTS and/or to standards established by the Department to assure that the Agreement is in compliance with all applicable regulations. The system shall provide an historic account of Agreement activities for examination and review by anyone authorized by the Department. Records shall be maintained after final audit of the Agreement for a period of not less than three (3) years unless the program requirements are longer.

The minimum acceptable records for administrative purposes of this Agreement consist of:

- 1) Documentation of employee time;
- 2) Documentation of all materials, supplies, and travel expenses;

- 3) Inventory records and supporting documents for allowable equipment purchased to carry out the scope of work of the project;
- 4) Documentation and justification of the methodology used for any in-kind contributions;
- 5) Justification supporting allocation of space charges or other indirect cost allocation methods; and
- 6) Any other records which support charges incurred.

The Grantee shall maintain sufficient segregation of accounting records for this Agreement separate from other Agreements, projects, and programs.

Except as required by the Department, disclosure by the Grantee of any information concerning beneficiaries who receive services from the Grantee is prohibited. The Grantee is responsible for obtaining all necessary, informed, written consent of the beneficiaries or the beneficiaries' legal guardians when the beneficiaries apply to the Grantee so that this Agreement can be properly administered by the Grantee and audited by the Department.

ARTICLE 28. EXAMINATION OF RECORDS

Documents related to this Agreement shall be made available for review by the Department during normal business hours.

The Department shall have access to all records related to this Agreement at any time during normal business hours, and shall have the right to examine, audit, excerpt, transcribe and copy on the Grantee's premises any directly pertinent records, in whatever form, relating to this Agreement. If the material is on electronic media, the Grantee shall provide copies in such form as may be requested by the Department. Such material must be retained after final audit of the Agreement for a period of not less than three (3) years unless the program requirements are longer. This provision shall also apply in the event of termination of this Agreement.

ARTICLE 29. AUDIT REQUIREMENTS

The Grantee shall have a certified annual audit performed utilizing Generally Accepted Accounting Principles and Generally Accepted Auditing Standards. The following requirements apply:

NOTE: The funding source (federal or state) of this grant is identified in the ATTACHMENTS.

Federal Funded Awards:

Governmental Grantees, or their assignees, including Non-Profit and For-Profit assignees, that **expend** \$500,000 or more in a single year from awards which funding originated from Federal Government sources shall comply with the Single Audit Act of 1984 (including the Single Audit Act Amendments of 1996), OMB Circular A-133, and the State Single Audit Guidelines issued by the Department. Audit reports are due to the State within thirty (30) days from issuance of the report, but no later than nine (9) months after the end of the audit period.

Non-Profit Grantees, or their assignees, that **expend** \$500,000 or more in a single year from awards which funding originated from Federal Government sources shall comply with the Single Audit Act of 1984 (including the Single Audit Act Amendments of 1996) and OMB Circular A-133. In addition, a separate footnote or schedule shall be included listing all awards which funding originated from State Government sources and the total cash expended under each of those awards for the year under audit. Audit reports are due to the State within thirty (30) days from issuance of the report, but no later than nine (9) months after the end of the audit period.

For-Profit Grantees, or their assignees, that **expend** \$500,000 or more in a single year from awards which funding originated from Federal Government sources shall have a certified annual audit performed utilizing Generally Accepted Accounting Principles, Generally Accepted Auditing Standards and Government Auditing Standards. In addition, a separate footnote or schedule shall be included listing all awards which funding originated from Federal Government sources and the total cash expended under each of those awards for the year under audit. Audit reports are due to the State within thirty (30) days from issuance of the report, but no later than nine (9) months after the end of the audit period.

One (1) copy of the Audit along with the Management Letter shall be submitted to the address listed below. Responses and corrective action to be taken by management must be included for any findings or comments issued by the auditor.

If the combined total **expended** from all funding originating from Federal Government sources is less than \$500,000 in a single year, the Grantee, or its assignee, shall confirm in writing that the above audit requirements are not applicable. This confirmation shall be submitted to the address listed below.

State Funded Awards:

***NOTE:** If an audit is required under OMB Circular A-133 as described above, then this section does not apply, as State Funded Awards shall already be included in that audit.*

Governmental, Non-Profit, and For-Profit Grantees, or their assignees, that **expend** \$100,000 or more in a single year from awards which funding originated from Federal Government sources shall have a certified annual audit performed utilizing Generally Accepted Accounting Principles, Generally Accepted Auditing Standards and Government Auditing Standards. In addition, a separate footnote or schedule shall be included listing all awards which funding originated from Federal Government sources and the total cash expended under each of those awards for the year under audit. Audit reports are due to the State within thirty (30) days from issuance of the report, but no later than nine (9) months after the end of the audit period.

One (1) copy of the Audit along with the Management Letter shall be submitted to the address listed below. Responses and corrective action to be taken by management must be included for any findings or comments issued by the auditor.

If the combined total **expended** from all funding originating from State Government sources is less than \$100,000 in a single year, the Grantee, or its assignee, shall confirm in writing that the above audit requirements are not applicable. This confirmation shall be submitted to the address listed below.

Submit To:

Send one copy of the Audit and Management Letter **or** the letter confirming that the audit requirements are not applicable to:

Federal Auditor
Wisconsin Department of Commerce
Division of Administrative Services
P.O. Box 7970
Madison, Wisconsin 53707-7970.

ASSURANCES

ARTICLE 30. NONDISCRIMINATION AND AFFIRMATIVE ACTION REQUIREMENTS

The Grantee shall comply with s. 16.765, Wis. Stats., as follows:

In connection with the performance of work under this Agreement, the Grantee shall not discriminate against any employee or applicant for employment because of age, race, religion, color, handicap, sex, physical condition, developmental disability as defined in s. 51.01(5), Wis. Stats., sexual orientation, or national origin.

This provision shall include, but not be limited to, the following activities: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Except with respect to sexual orientation, the Grantee shall take affirmative action to ensure equal employment opportunities. The Grantee shall post in conspicuous places, available for employees and applicants for employment, notices to be provided by the Contracting officer setting forth the provisions of the nondiscrimination clause.

An Affirmative Action Plan is required from any Grantee who receives an award from the Department in excess of \$25,000 and who has a work force of twenty-five (25) or more employees as of the Agreement date. Grantees with an annual work force of less than twenty-five (25) employees, in lieu of a written affirmative action plan, are required to have on file with the Department a completed and signed exemption form. General purpose units of government and Indian Tribes or Bands or Authorities are exempt from this requirement.

The Grantee shall include these provisions in any subcontract associated with this Agreement.

ARTICLE 31. DISCLOSURE

If a state public official as defined by s. 19.42, Wis. Stats., or an organization in which a state public official holds at least a 10% interest is a party to this Agreement, this Agreement is voidable by the State unless appropriate disclosure is made to the Government Accountability Board, Ethics and Accountability Division.

The Grantee shall not engage the services of any person or persons now employed by the State, including any department, commission or board thereof, to provide services relating to this Agreement without the written consent of the employer of such person or persons and of the Department.

ARTICLE 32. FAIR HOUSING

The Grantee shall comply with Title VIII of the Federal Civil Rights Act of 1968 (as amended), and s. 106.50, Wis. Stats., and any subsequent relevant laws or amendments.

ARTICLE 33. SMALL BUSINESS, WOMEN-OWNED AND MINORITY-OWNED BUSINESSES

The Grantee shall make positive efforts to utilize small business, local business, woman-owned, and minority-owned business sources of supplies and services. Such efforts should allow these sources the maximum feasible opportunity to compete for Agreements or subcontracts to be performed utilizing these funds.

The Grantee shall keep records of the extent (number and dollar amount) of participation by the above-specified businesses, including owners, and assess the results of its efforts to encourage the use of such businesses.

ARTICLE 34. UNIFORM ADMINISTRATIVE REQUIREMENTS

Dependent on the nature of your program, the following U.S. Office of Management and Budget (OMB) Circulars apply:

Although there are six grant circulars, the Grantee is only covered by three, depending on type of entity as follows:

States, local governments, and Indian Tribes follow:

- A-87 for cost principles
- A102 for administrative requirements, and
- A-133 for audit requirements

Educational Institutions (even if part of a State or local government) follow:

- A-21 for cost principles
- A-110 for administrative requirements, and
- A-133 for audit requirements

Non-Profit Organizations follow:

- A-122 for cost principles
- A-110 for administrative requirements, and
- A-133 for audit requirements

ARTICLE 35. DEBARRED CONTRACTORS

Federal funds may not be used to directly or indirectly employ, award contracts to or otherwise engage the services of any contractor or subrecipient during any period of debarment, suspension or placement of ineligibility status. Grantees must certify that all contractors, subcontractors, lower-tier contractors and subrecipients are not listed in the federal publication that lists debarred, suspended and ineligible contractors.