

**GOVERNOR'S OFFICE OF FAITH-BASED AND COMMUNITY INITIATIVES
OHIO DEPARTMENT OF JOB AND FAMILY SERVICES**

SUBGRANT AGREEMENT

G-1011-21-0000

This Subgrant Agreement is created pursuant to the Grant that is awarded by the Governor's Office of Faith-Based and Community Initiatives (hereinafter referred to as "GOFBCI"), and the Ohio Department of Job and Family Services (hereinafter referred to as "ODJFS") State of Ohio to **Subgrantee Name** (hereinafter referred to as "SUBGRANTEE"). GOFBCI and ODJFS hereby award the Subgrant and SUBGRANTEE hereby accepts the Subgrant and agrees to comply with all the terms and conditions as set forth in this Subgrant Agreement.

RECITALS:

- A. ODJFS issued a Request for Grant Applications (hereinafter "RFGA") number **R-1011-21-8033** released November ____, 2009, and entitled **Feed Ohio: Summer Food Service Program Support**. The ODJFS evaluation team recommended for award SUBGRANTEE's Proposal, dated ____, 2010, (hereinafter "Proposal"). Both the RFGA and the Proposal are hereby incorporated by reference.
- B. In the event of any inconsistency or ambiguity between the provisions of the RFGA, the Application, or this Subgrant Agreement, the provisions of this Subgrant Agreement will determine the obligations of the parties. In the event that this Grant Agreement fails to clarify any inconsistency or ambiguity between the RFGA and the Application, the RFGA will determine the obligations of the parties. In the event of a disputed issue that is not addressed in any of the aforementioned documents, the parties hereby agree to make every reasonable effort to resolve the dispute in keeping with the objectives of this Subgrant Agreement and the budgetary and statutory constraints of GOFBCI and ODJFS.
- C. This Subgrant is made with funds from the Temporary Assistance to Needy Families ("TANF") Block Grant, Award Number G996115, Catalog of Federal Domestic Assistance (CFDA) Number 93.558 from the Department of Health and Human Services. GOFBCI received this Grant and ODJFS serves as this fiscal agent for GOFBCI. The award period is for Federal Fiscal Year 2010. This Subgrant is not for research and development purposes.

DEFINITIONS:

- A. For the purposes of this Subgrant Agreement, the terms "auditee," "auditor," "audit finding," "CFDA number," "Federal award," "Federal awarding agency," "Federal program," "internal control," "management decision," "non-profit organization," "Office of Management and Budget (OMB)," "pass-through entity," "single audit," "state," and "subrecipient" have the same meanings as provided in section. 105 of OMB Circular A-133, Audits of States, Local Governments and Non-Profit Organizations.
- B. For the purposes of this Subgrant Agreement, the terms "awarding agency," "equipment," "real property," "subgrant," "subgrantee," "supplies," "suspension," and "termination" have the same meanings as provided in Title 45 of the Code of Federal Regulations Part 74.2 (45 CFR 74.2).

THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS CONTAINED IN THIS SUBGRANT AGREEMENT, THE PARTIES AGREE AS FOLLOWS:

ARTICLE I. PURPOSE OF THE SUBGRANT/SUBGRANT ACTIVITIES

- A. SUBGRANTEE will use Subgrant funds in support of its role as a United States Department of Agriculture (USDA) Summer Food Service Program (SFSP) sponsor that will provide nutritious meals and snacks to TANF-eligible children. SUBGRANTEE will use funds under this Subgrant Agreement to establish [# sites] new SFSP sites and enrichment programs as specified in the RFGA and in the Proposal. SUBGRANTEE will also use funds to enhance the enrichment program at existing SFSP sites if specified in the Proposal. SUBGRANTEE expressly agrees to apply to the USDA in 2011 and in subsequent years to continue service as a SFSP sponsor. GOFBCI and ODJFS understand that SUBGRANTEE's SFSP sponsorship in subsequent years is contingent upon the USDA's continuation of the SFSP and its approval of

SUBGRANTEE's application in each subsequent year. SUBGRANTEE will fulfill its responsibilities under this Subgrant by performing activities (hereinafter "Grant activities") in accordance with the RFGA and the Proposal, including at minimum:

1. Providing SFSP site services by June 1, 2010, and maintaining services for a minimum of six (6) weeks. SUBGRANTEE must retain ODE certification for each site throughout the SFSP period. Should ODE close any SFSP site established or maintained under this Subgrant Agreement, SUBGRANTEE agrees to notify GOFBCI of the closure within two (2) business days.
 2. Preparing enrichment program curricula during spring 2010 for use by the opening day of each site in June 2010. The enrichment program must contribute to participants' social and academic development, physical fitness, and nutrition education.
 3. Executing an enrichment program at each SFSP site that will take place concurrently with each SFSP meal. Both the enrichment program and the meal will be for a duration of at least one hour.
 4. Creating and implementing marketing strategies in order to publicize the SFSP sites and accompanying enrichment programs at appropriate places from May to June 2009, or longer.
 5. Maintaining detailed attendance and participation records in accordance with ODJFS and GOFBCI requirements.
 6. Attending all mandatory GOFBCI meetings and training sessions.
 7. Preparing and submitting to GOFBCI detailed project reports as specified in the RFGA and under the guidance of GOFBCI.
 8. Developing a SFSP sustainability plan for the sites to continue in Summer 2011.
- B. SUBGRANTEE expressly understands that the purchase and use of all equipment, including appliances and supplies, that were purchased with Subgrant funds under this Subgrant Agreement are subject to the provisions of TANF, the Office of Management and Budget ("OMB") Circular A-133 and 45 CFR 74. SUBGRANTEE expressly agrees that all items purchases with Subgrant funds will be tangible in nature and no Subgrant funds will be utilized to make permanent, capital improvements to SUBGRANTEE's or SFSP site properties. Also, in order to comply with the above-listed provisions, SUBGRANTEE expressly agrees to apply to other federal programs throughout the year and to make the best efforts to utilize the appliances and any unused supplies for the benefit of other federal program recipients during the school year.
- C. The GOFBCI Subgrant Manager is Shandell Jamal.
- D. The GOFBCI Subgrant Manager may periodically communicate specific requests and instructions to SUBGRANTEE concerning the performance of activities described in this Subgrant Agreement. SUBGRANTEE will comply with any requests or instructions to the within ten (10) days after receipt of the requests or instructions. GOFBCI and SUBGRANTEE understand that any requests or instructions are strictly to ensure the successful completion of the activities described in this Subgrant Agreement, and are not intended to amend or alter this Subgrant Agreement in any way. If SUBGRANTEE believes that any requests or instructions would materially alter the terms and conditions of this Subgrant Agreement, including the compensation stated hereunder, SUBGRANTEE will notify the GOFBCI Subgrant Manager pursuant to ARTICLE VI. SUBGRANTEE agrees to consult with the GOFBCI Subgrant Manager as needed to clarify Subgrant -related activities and the successful completion thereof.

ARTICLE II. EFFECTIVE DATE OF THE SUBGRANT

- A. This Subgrant Agreement will be in effect from the date of issuance of an approved State of Ohio purchase order or _____, 2010, whichever is later, through September 30, 2010, unless this Subgrant Agreement is suspended or terminated pursuant to ARTICLE V prior to the above termination date.
- B. In addition to the above paragraph it is expressly understood by both GOFBCI and SUBGRANTEE that this Subgrant Agreement will not be valid and enforceable until the Director of the Office of Budget and Management, State of Ohio, first certifies, pursuant to section 126.07 of the Ohio Revised Code (ORC), that there is a balance in the appropriation not already allocated to existing obligations. The GOFBCI Subgrant Manager will notify SUBGRANTEE when this certification is given.

ARTICLE III. AMOUNT OF SUBGRANT/PAYMENTS

- A. The total amount of the Subgrant is _____ and 00/100 Dollars (\$0.00) for the Subgrant Agreement period. ODJFS will reimburse SUBGRANTEE an amount up to _____ and 00/100 Dollars (\$0.00) in State Fiscal Year (SFY) 2010 and up to _____ and 00/100 Dollars (\$0.00) in SFY 2011 expressly for the performance of Subgrant activities listed in ARTICLE I of this Subgrant Agreement. SUBGRANTEE hereby waives the interest provisions of ORC 126.30.
- B. SUBGRANTEE may initially submit a written request for a draw-down of up to _____ and 00/100 Dollars (\$0.00), which is twenty percent (20%) of the total Subgrant awarded to SUBGRANTEE for the SFY 2010/2011 Summer Food Program as a working capital advance. Thereafter, the remainder of the Subgrant payments will be made on a reimbursement basis in accordance with Section D, below. The SFY 2010 portion of the Subgrant award will be provided under a subsequent agreement.
- C. SUBGRANTEE expressly understands that any draw-down funds received as a working capital advance must be liquidated within three (3) days of the date of receipt of the funds. SUBGRANTEE must submit documentation of the expenses within five (5) business days of receipt of the advance. Any unexpended funds remaining from the advance must be returned to ODJFS prior to the submission of the first monthly invoice. SUBGRANTEE must also conduct a funds reconciliation no later than thirty (30) days after receipt of the working capital advance and before requesting any additional funds under this Subgrant Agreement. SUBGRANTEE will return any working capital advance funds that exceed actual expenditures confirmed by invoices ODJFS has paid. The GOFBCI Subgrant Manager will instruct SUBGRANTEE on the manner in which to return any unused funds.
- D. Thereafter, funds will be paid on a monthly basis for **reasonable and necessary** costs incurred in the completion of Subgrant Activities, pursuant to the State Fiscal Year (SFY) 2009 portion of SUBGRANTEE's Budget, which is Attachment A to this Subgrant Agreement and is hereby incorporated by reference. SUBGRANTEE will submit three (3) copies of the respective invoice to the Director of the Governor's Office of Faith-Based and Community Initiatives, 77 South High Street, 7th Floor, Columbus, OH 43215-6117. Each request will contain:
1. SUBGRANTEE's name, complete address, and Federal Tax Identification number;
 2. SUBGRANTEE's purchase order number;
 3. Subgrant Agreement number and dates;
 4. The amount and purpose of the invoice;
 5. Description of activities performed during the billing period; and
 6. Receipt or other proof of expenses incurred by SUBGRANTEE during the billing period, including price quotes from at least three (3) vendors for purchases of appliances to demonstrate that SUBGRANTEE sought the best value for items purchase.
- E. SUBGRANTEE expressly understands that ODJFS will not compensate SUBGRANTEE for:
1. Any work performed prior to SUBGRANTEE's receipt of notice from the GOFBCI Subgrant Manager that the provisions of ORC 126.07 have been met as described in ARTICLE II; or
 2. Any work performed after the ending date specified in ARTICLE II.
- F. SUBGRANTEE expressly understands that ODJFS does not have the ability to compensate SUBGRANTEE for invoices submitted after The State of Ohio purchase order has been closed. SUBGRANTEE must submit final invoices for payment no later than ninety (90) days after the ending date of this Subgrant Agreement. Failure to do so will be deemed a forfeiture of the remaining compensation due hereunder.

G. Subject to the provisions of ORC 126.07 and ORC 131.33, which will at all times govern this Subgrant Agreement, ODJFS represents that:

1. It has adequate funds to meet its obligations under this Subgrant Agreement;
2. It intends to maintain this Subgrant Agreement for the full period set forth in ARTICLE II and has no reason to believe that sufficient funds will not be available to make all payments due hereunder; and
3. It will use its best efforts to obtain the appropriation of necessary funds during the term of this Subgrant Agreement.

SUBGRANTEE understands that availability of funds is contingent on appropriations made by the Ohio General Assembly or funding sources external to the State of Ohio, such as federal funds. If the Ohio General Assembly or the external funding source fails at any time to continue funding GOFBCI and ODJFS for the payments due under this Subgrant Agreement, this Subgrant Agreement will be terminated as of the date funding expires without further obligation of GOFBCI, ODJFS or the State of Ohio.

H. As a subrecipient of federal funds, SUBGRANTEE hereby specifically acknowledges its obligations relative to the funds provided under this Subgrant Agreement pursuant to OMB Circulars A-110, A-122, and A-133 as well as 45 CFR 74, including but not limited to the following federal rules:

1. Standards for financial management systems: SUBGRANTEE and any of its subrecipients will comply with the requirements of 45 CFR 74.21, including, but not limited to:
 - a. Fiscal and accounting procedures;
 - b. Accounting records;
 - c. Internal control over cash, real and personal property, and other assets;
 - d. Budgetary control to compare actual expenditures or outlays to budgeted amounts;
 - e. Source documentation; and
 - f. Cash management.
2. Period of Availability of Funds: Pursuant to 45 CFR 74.28, SUBGRANTEE and any of its subrecipients may charge to the Subgrant award only costs resulting from obligations incurred during the funding period specified in the Recitals section of this Subgrant Agreement. All obligations incurred under the Subgrant award must be liquidated no later than ninety (90) days after the end of the funding period unless otherwise specified herein.
3. Matching or Cost Sharing: Pursuant to 45 CFR 74.23, matching or cost sharing requirements applicable to the Federal program providing the Subgrant must be satisfied by allowable costs incurred or third-party in-kind contributions.
4. Program Income: Program income, as defined in 45 CFR 74.24, must be used as specified in that section.
5. Real Property: If SUBGRANTEE is authorized to use Subgrant funds for the acquisition of real property, the title, use, and disposition of the real property will be governed by the provisions of 45 CFR 74.32.
6. Equipment: Title, use, management (including record keeping, internal control, and maintenance), and disposition of equipment acquired by SUBGRANTEE or any of its subrecipients with Subgrant funds, will be governed by the provisions of 45 CFR 74.34.
7. Supplies: Title and disposition of supplies acquired by SUBGRANTEE or any of its subrecipients with Subgrant funds will be governed by the provisions of 45 CFR 74.35.

ARTICLE IV. AUDITS OF SUBGRANTEE

- A. Subject to the threshold requirements of 45 CFR 74.5 and OMB Circular A-133, SUBGRANTEE must have an entity-wide single audit. SUBGRANTEE must send one (1) copy of every audit report to Al Hammond, in the ODJFS Office of Fiscal Services at 30 East Broad Street, 38th Floor, Columbus, Ohio 43215, within two (2) weeks of the SUBGRANTEE's receipt of any such audit report.
- B. SUBGRANTEE has additional responsibilities as an auditee under OMB Circular A-133 that include, but are not limited to:
1. Proper identification of federal awards received;
 2. Maintenance of required internal controls;
 3. Compliance with all state and federal laws, and regulations, and with all provisions of contracts, grant agreements, or subgrant agreements that pertain to each of its federal programs;
 4. Preparation of appropriate financial statements that include a schedule of federal award expenditures;
 5. Proper performance and timely submission of the A-133 Single Audit; and
 6. Follow up on audit findings that include the preparation of a summary schedule of prior audit findings and corrective action, if needed, and the preparation of a corrective action plan.

ARTICLE V. SUSPENSION AND TERMINATION, BREACH AND DEFAULT

- A. This Agreement will automatically terminate upon expiration of the time period in ARTICLE II, upon completion of Subgrant activities, or once all of the compensation has been paid.
- B. Upon thirty (30) days written notice to the other parties, GOFBCI, ODJFS, or SUBGRANTEE may terminate this Agreement.
- C. Notwithstanding the provision of Section A, above, GOFBCI or ODJFS may suspend or terminate this Agreement immediately upon delivery of a written notice to SUBGRANTEE if:
1. GOFBCI loses funding as described in ARTICLE III, Section G;
 2. GOFBCI discovers any illegal conduct by SUBGRANTEE; or
 3. SUBGRANTEE has violated any provision of ARTICLE IX.
- D. SUBGRANTEE, upon receiving notice of suspension or termination, will:
1. Cease performance of the suspended or terminated Subgrant activities;
 2. Take all necessary steps to limit disbursements and minimize costs including, but not limited to, suspending or terminating all contracts and subgrants related to suspended or terminated Subgrant activities;
 3. Prepare and furnish a report to GOFBCI, as of the date the notice of termination or suspension was received, that describes the status of all Subgrant activities and includes the results accomplished and the conclusions reached through Subgrant activities; and
 4. Perform any other tasks GOFBCI or ODJFS may require.
- E. In the event of suspension or termination under this ARTICLE V, GOFBCI and ODJFS will, upon receipt of a proper invoice from SUBGRANTEE, determine the amount of any unpaid Subgrant funds due to SUBGRANTEE for Subgrant activities performed before SUBGRANTEE received notice of termination or suspension. In order to determine the amount due to SUBGRANTEE, GOFBCI and ODJFS will base their calculations on the payment method described in ARTICLE III and in consideration of any funds previously

paid by or on behalf of GOFBCI. GOFBCI and ODJFS will not be liable for any further claims submitted by SUBGRANTEE.

- F. Upon SUBGRANTEE's breach or default of provisions, obligations, or duties embodied in this Agreement or any term of an award, a federal statute or regulation, an assurance, a State plan or application, a notice of award, or other applicable rule, GOFBCI and ODJFS reserve the right to exercise any administrative, contractual, equitable, or legal remedies available without limitation. Any waiver by GOFBCI or ODJFS of an occurrence of breach or default is not a waiver of subsequent occurrences. If GOFBCI, ODJFS or SUBGRANTEE fails to perform any obligation under this Agreement and the other parties subsequently waive the failure, the waiver will be limited to that particular occurrence of a failure and will not be deemed to waive other failures that may occur. Waiver by GOFBCI or ODJFS will not be effective unless it is in writing signed by the Directors of GOFBCI and ODJFS.

ARTICLE VI. NOTICES

- A. GOFBCI, ODJFS and SUBGRANTEE agree that communication regarding Subgrant activities, scope of work, invoice or billing questions, or other routine instructions will be between SUBGRANTEE and the identified GOFBCI Agreement Manager pursuant to ARTICLE I, Section C of this Agreement.
- B. Notices to GOFBCI and/or ODJFS from SUBGRANTEE that concern changes to SUBGRANTEE's principal place of operation, billing address, legal name, federal tax identification number, mergers or acquisitions, corporate form, excusable delay, termination, bankruptcy, assignment, any notice pursuant to ARTICLE IX, and/or any other formal notice regarding this Agreement will be sent to the ODJFS Deputy Director of Contracts and Acquisitions at 30 East Broad Street, 31st Floor, Columbus, Ohio 43215.
- C. Notices to SUBGRANTEE from GOFBCI or ODJFS concerning termination, suspension, option to renew, breach, default, or other formal notices regarding this Agreement will be sent to SUBGRANTEE's representative at the address appearing on the signature page of the this Agreement.
- D. All notices in accordance with Sections B and C of this ARTICLE will be in writing and will be deemed given when received. All notices must be sent using a delivery method that documents actual delivery to the appropriate address herein indicated (e.g., certified mail).

ARTICLE VII. RECORDS, DOCUMENTS AND INFORMATION

SUBGRANTEE agrees that all records, documents, writings, and other information, created or used pursuant to this Agreement will be treated according to the following terms, and that the terms will be included in any subgrant agreements executed for the performance of Activities relative to this Agreement:

- A. SUBGRANTEE agrees that any media produced pursuant to this Agreement or acquired with Subgrant funds will become the property of GOFBCI. This includes all documents, reports, data, photographs (including negatives), and electronic reports and records. GOFBCI will maintain the unrestricted right to reproduce, distribute, modify, maintain, and use the media in any way GOFBCI deems appropriate. SUBGRANTEE further agrees not to seek or obtain copyright, patent or other proprietary protection for any materials or items produced under this Agreement. SUBGRANTEE understands that all materials and items produced under this Agreement will be made freely available to the public unless GOFBCI or ODJFS determines that certain materials are confidential under federal or state law.
- B. All GOFBCI or ODJFS information that is classified as public or private under Ohio law and GOFBCI or ODJFS rules will be treated as such by SUBGRANTEE. Should the nature of any information be in question, GOFBCI and ODJFS will determine whether the information is public or private. SUBGRANTEE will restrict the use of any information, systems, or records GOFBCI or ODJFS provides to the specific Subgrant activities specified in ARTICLE I of this Agreement. SUBGRANTEE and its employees agree to be bound by the same standards and rules of confidentiality that apply to employees of GOFBCI, ODJFS and the State of Ohio. SUBGRANTEE agrees that the terms of this Section B will be included in any contract or subgrant executed by SUBGRANTEE for work under this Agreement.
- C. SUBGRANTEE information that is proprietary and has been specifically identified by SUBGRANTEE as proprietary will be held as confidential by GOFBCI and ODJFS. Proprietary information is information that would put SUBGRANTEE at a competitive disadvantage in SUBGRANTEE's market place and trade if it were made public. GOFBCI and ODJFS reserve the right to require reasonable evidence of SUBGRANTEE's assertion of the proprietary nature of any information. The provisions of this ARTICLE are

not self-executing. SUBGRANTEE must demonstrate that any information claimed as proprietary meets the definition of "trade secrets" found at ORC 1333.61.

- D. All records relating to cost, work performed, supporting documentation for invoices submitted to ODJFS, and copies of all materials produced under or pertaining to this Agreement will be retained by SUBGRANTEE and will be made available for audit by state and federal government entities that include but not limited to, GOFBCI, ODJFS, the Ohio Auditor of State, the Ohio Inspector General and all duly authorized law enforcement officials. The records and materials will be retained and made available for a minimum of three (3) years after SUBGRANTEE receives the last payment pursuant to this Agreement. If an audit, litigation or similar action is initiated during this time period, SUBGRANTEE will retain the records until the action is concluded and all issues are resolved, or until the end of the three-year period if the action is resolved prior to the end of the three-year period. SUBGRANTEE must meet the requirements of the applicable OMB Circulars. SUBGRANTEE acknowledges, in accordance with ORC 149.43, that financial records related to the performance of services under this Agreement are presumptively deemed public records.
- E. SUBGRANTEE hereby agrees to current and ongoing compliance with Title 42, Section 1320 of the United States Code (42 USC 1320(d) -1320(d)(8)) and the implementing regulations found at 45 CFR 164.502(e) and 164.504(e) regarding disclosure of Protected Health Information under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"). SUBGRANTEE further agrees to include the terms of this Section E in any subgrant agreements that may be executed pursuant to this Agreement.

ARTICLE VIII. AMENDMENT, ASSIGNMENT, AND SUBAWARD

- A. **Amendment.** This writing constitutes the entire agreement between GOFBCI, ODJFS and SUBGRANTEE with respect to all matters herein. Only a writing signed by all parties may amend this Agreement. However, GOFBCI, ODJFS and SUBGRANTEE agree that any amendments to any laws or regulations cited herein will result in the correlative modification of this Agreement without the necessity for executing written amendments. Any written amendment to this Agreement will be prospective in nature.
- B. **Assignment of Interests.** SUBGRANTEE agrees not to assign any interest in this Agreement nor transfer any interest in the Subgrant without the prior written approval of GOFBCI and ODJFS. SUBGRANTEE will submit any requests for approval of assignments and transfers to the GOFBCI Agreement Manager at least 10 (ten) days prior to the desired effective date. SUBGRANTEE understands that any assignments and transfers will be subject to any conditions GOFBCI and ODJFS deem necessary and that no approval by GOFBCI and ODJFS will be deemed to provide for any GOFBCI or ODJFS obligation that exceeds the Subgrant amount specified in ARTICLE III of this Agreement.
- C. **Subawards.**
1. **Subgrants.** Any subgrants by SUBGRANTEE will be made in accordance with 45 CFR 74.5.
 2. **Debarment and Suspension.** As provided in 45 CFR 74.13, SUBGRANTEE and its subgrantees must not make any award or permit any award at any tier to any party that is debarred or suspended or is otherwise excluded from or ineligible for participation in federal assistance programs.
 3. **Procurement.** While SUBGRANTEE and its subgrantees may use their own procurement procedures, the procedures must conform to all applicable federal laws, including 45 CFR 74.44. In the event of conflict between federal, state, and local requirements, the most restrictive must be used.
 4. **Monitoring.** SUBGRANTEE must manage and monitor the routine operations of Subgrant supported activities, including each project, program, subaward, and function supported by the Subgrant, to ensure compliance with all applicable federal requirements, including 45 CFR 74.51.
- D. **Duties as Pass-through Entity.** In the event that SUBGRANTEE subgrants federal funds received under this Agreement to a government or non-profit organization, SUBGRANTEE, as a pass-through entity, must:
1. Identify the federal awards made by informing each subrecipient of CFDA title and number, award name and number, award year, if the award is for research and development, and the name of

federal awarding agency. When some of this information is not available, the pass-through entity will provide the best information available to describe the federal award.

2. Advise subrecipients of requirements imposed on them by federal laws, regulations, and the provisions of contracts or subgrant agreements as well as any supplemental requirements imposed by the ODJFS and any subsequent pass-through entity.
3. Monitor the activities of subrecipients as necessary to ensure that federal awards are used for authorized purposes in compliance with all applicable federal and state laws and regulations, and the provisions of contracts or subgrant agreements and that all performance goals are achieved.
4. Ensure that subrecipients expending Five Hundred Thousand and 00/100 Dollars (\$500,000.00) or more in federal awards during the subrecipient's fiscal year have met the audit requirements of this Agreement for that fiscal year. One (1) copy of every audit report must be sent to Al Hammond, in the ODJFS Office of Fiscal Services at 30 East Broad Street, 38th Floor, Columbus, Ohio 43215, within two (2) weeks of the subrecipient's receipt of any such audit report.
5. Determine whether its subrecipients spent federal assistance funds provided in accordance with applicable laws and regulations;
6. Issue a management decision on audit findings within six (6) months after receipt of the subrecipient's audit report and ensure that the subrecipient takes appropriate and timely corrective action.
7. Consider whether subrecipient audits necessitate adjustment of the pass-through entity's own records.
8. Require each subrecipient to permit GOFBCI, ODJFS, or any other state or federal government entity, including auditors, to have access to the records and financial statements as necessary for the pass-through entity to comply with this Section D.

ARTICLE IX. SUBGRANTEE CERTIFICATION OF COMPLIANCE WITH SPECIAL CONDITIONS

By accepting this Subgrant and by executing this Agreement, SUBGRANTEE hereby affirms current and continued compliance with each condition listed in this ARTICLE. SUBGRANTEE's certification of compliance with each of these conditions is considered a material representation of fact upon which GOFBCI and ODJFS relied in entering into this Agreement:

- A. If at any time, SUBGRANTEE is not in compliance with the conditions affirmed in this Section A, GOFBCI will consider this Agreement *void ab initio* and will deliver written notice to SUBGRANTEE. Any funds the State of Ohio paid SUBGRANTEE for work performed before SUBGRANTEE received notice that the Agreement is *void ab initio* will be immediately repaid or the State of Ohio may commence an action for recovery against SUBGRANTEE.
 1. **Federal Debarment Requirements.** SUBGRANTEE affirms that neither SUBGRANTEE nor any of its principals, subgrantees, or subcontractors, is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in transactions by any federal agency. SUBGRANTEE also affirms that within three (3) years preceding this agreement neither SUBGRANTEE nor any of its principals:
 - a. Have been convicted of, or had a civil judgment rendered against them for commission of fraud or other criminal offense in connection with obtaining, attempting to obtain, or performing a federal, state, or local public transaction or contract under a public transaction; for violation of federal or state antitrust statutes; for commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements; or for receiving stolen property; or
 - b. Are presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) for the commission of any of the offenses listed in this paragraph and have not had any federal, state, or local, public transactions terminated for cause or default.

2. **Qualifications to Conduct Business.** SUBGRANTEE affirms that it has all of the approvals, licenses, or other qualifications needed to conduct business in Ohio and all are current. If at any time during the Agreement period SUBGRANTEE, for any reason, becomes disqualified from conducting business in the State of Ohio, SUBGRANTEE will immediately notify GOFBCI and ODJFS in writing and will immediately cease performance of all Subgrant activities.
 3. **Unfair Labor Practices.** SUBGRANTEE affirms that neither SUBGRANTEE nor its principals are on the most recent list established by the Ohio Secretary of State, pursuant to ORC 121.23, which would identify SUBGRANTEE as having more than one (1) unfair labor practice contempt of court finding.
 4. **Finding for Recovery.** SUBGRANTEE affirms that neither SUBGRANTEE nor its principals, subgrantees, or subcontractors, is subject to a finding for recovery under ORC 9.24, or it has taken the appropriate remedial steps required, or otherwise qualifies under ORC 9.24 to contract with the State of Ohio.
 5. **Material Assistance to Terrorist Organization.** SUBGRANTEE affirms that SUBGRANTEE, its principals, affiliated groups, or persons with a controlling interest in SUBGRANTEE's organization are in compliance with ORC 2909.33 in that none of the aforementioned have provided Material Assistance to a Terrorist Organization.
- B. If at any time SUBGRANTEE is not in compliance with the conditions affirmed in this Section B, GOFBCI may immediately suspend or terminate this Agreement and will deliver written notice to SUBGRANTEE. SUBGRANTEE will be entitled to compensation, upon submission of a proper invoice per ARTICLE III, only for work performed during the time SUBGRANTEE was in compliance with the provisions of this Section B. Any funds paid by the State of Ohio for work performed during a period when SUBGRANTEE was not in compliance with this Section B will be immediately repaid or the State of Ohio may commence an action for recovery against SUBGRANTEE.
1. **Americans with Disabilities.** SUBGRANTEE, its officers, employees, members, and subcontractors hereby affirm current and ongoing compliance with all statutes and regulations pertaining to The Americans with Disabilities Act of 1990 and Section 504 of the Rehabilitation Act of 1973.
 2. **Fair Labor Standards and Employment Practices.**
 - a. SUBGRANTEE certifies that it is in compliance with all applicable federal and state laws, rules, and regulations governing fair labor and employment practices.
 - b. In carrying out this Agreement, SUBGRANTEE will not discriminate against any employee or applicant for employment because of race, religion, national origin, ancestry, color, gender, gender identity, sexual orientation, age, disability, or veteran status. SUBGRANTEE will ensure that all applicants are hired, and all employees are considered for promotion, demotion, transfer; recruitment or recruitment advertising, layoff, termination, rates of pay, other forms of compensation, selection for training--including apprenticeship-- or any other employment-related opportunities, without regard to race, religion, national origin, ancestry, color, gender, gender identity, sexual orientation, age, disability, or veteran status.
 - c. SUBGRANTEE agrees to post notices affirming compliance with all applicable federal and state non-discrimination laws in conspicuous places accessible to all employees and applicants for employment.
 - d. SUBGRANTEE will incorporate the foregoing requirements of this Paragraph 2 in all of its subgrants or subcontracts for any of the work prescribed herein.
 3. **Ethics Laws.** SUBGRANTEE certifies that by executing this Agreement, it has reviewed, knows and understands the State of Ohio's ethics and conflict of interest laws, which includes the Governor's Executive Order 2007-01S pertaining to ethics. SUBGRANTEE further agrees that it will not engage in any action(s) inconsistent with Ohio ethics laws or the aforementioned Executive Order.

4. Conflicts of Interest.

- a. SUBGRANTEE certifies, by executing this Agreement, that no party who holds a position listed or described in ORC 3517.13 (I) or (J), has made, while in his/her current position, one (1) or more personal monetary contributions in excess of One Thousand and 00/100 Dollars (\$1,000.00) to the current Governor or to the Governor's campaign committee when he was a candidate for office within the previous two (2) calendar years. ORC 3517.13 does not apply to professional associations organized under ORC Chapter 1785.
- b. SUBGRANTEE agrees to refrain from promising or giving any GOFBCI or ODJFS employee anything of value that could be construed as having a substantial and improper influence upon the employee with respect to the employee's duties. SUBGRANTEE further agrees that it will not solicit any GOFBCI or ODJFS employee to violate ORC 102.03, 2921.42, or 2921.43.
- c. SUBGRANTEE agrees that SUBGRANTEE, its officers, employees, and members have not nor will they acquire any interest, whether personal, business, direct or indirect, that is incompatible, in conflict with, or would compromise the discharge and fulfillment of SUBGRANTEE's functions and responsibilities under this Agreement. If SUBGRANTEE, its officers, employees, or members acquire any incompatible, conflicting, or compromising interest, SUBGRANTEE agrees it will immediately disclose the interest in writing to the ODJFS Chief Legal Counsel at 30 East Broad Street, 31st Floor, Columbus, Ohio 43215. SUBGRANTEE further agrees that the person with the conflicting interest will not participate in any Subgrant activities until GOFBCI and ODJFS determine that participation would not be contrary to public interest.

5. Lobbying Restrictions.

- a. SUBGRANTEE affirms that no federal funds paid to SUBGRANTEE by ODJFS through this Agreement or any other agreement have been or will be used to lobby Congress or any federal agency in connection with a particular contract, grant, cooperative agreement or loan. SUBGRANTEE further affirms compliance with all federal lobbying restrictions, including, 31 USC 1352. If this Subgrant exceeds One Hundred Thousand and 00/100 (\$100,000.00), SUBGRANTEE affirms that it has executed and filed the Disclosure of Lobbying Activities standard form LLL, if required by federal regulations.
- b. SUBGRANTEE certifies compliance with the Ohio executive agency lobbying restrictions contained in ORC 121.60 to 121.69.

6. Child Support Enforcement. SUBGRANTEE agrees to cooperate with GOFBCI, ODJFS and any child support enforcement agency in ensuring that SUBGRANTEE and its employees meet child support obligations established by state and federal law including present and future compliance with any court or valid administrative order for the withholding of support issued pursuant to the applicable sections of ORC Chapters 3119, 3121, 3123, and 3125.**7. Pro-Child Act.** If any Subgrant activities call for services to minors, SUBGRANTEE agrees to comply with the Pro-Children Act of 1994; Public Law 103-277, Part C – Environment Tobacco Smoke that requires smoking to be banned in any portion of any indoor facility owned, leased, or contracted by an entity that will routinely or regularly use the facility for the provision of health care services, day care, library services, or education to children under the age of eighteen (18).**8. Drug-Free Workplace.** SUBGRANTEE, its officers, employees, members, any subgrantees and/or any independent contractors (including all field staff) associated with this Agreement agree to comply with all applicable state and federal laws, including, but not limited to, 41 USC Chapter 10, regarding a drug-free workplace. SUBGRANTEE will make a good faith effort to ensure that none of SUBGRANTEE's officers, employees, members, or subgrantees will purchase, transfer, use, or possess illegal drugs or alcohol or abuse prescription drugs in any way while working or while on public property.**9. Work Programs.** SUBGRANTEE agrees not to discriminate against individuals who have or are participating in any work program administered by any county department of Job and Family Services under ORC Chapter 5101 or 5107.

10. **MBE/EDGE.** Pursuant to the Governor's Executive Order 2008—13S, SUBGRANTEE agrees to purchase goods and services under this Agreement from certified Minority Business Enterprise ("MBE") and Encouraging Diversity, Growth, and Equity ("EDGE") vendors whenever possible. SUBGRANTEE agrees to encourage any of its subgrantees or subcontractors to purchase goods and services from certified MBE and EDGE vendors.
11. **Certification of Compliance.** SUBGRANTEE certifies that it is in compliance with all other applicable federal and state laws, regulations, and rules and will require the same certification from its subgrantees or subcontractors.

ARTICLE X. MISCELLANEOUS PROVISIONS

- A. **Independent Contractor.** SUBGRANTEE agrees that no agency, employment, joint venture, or partnership has been or will be created between GOFBCI, ODJFS and SUBGRANTEE. SUBGRANTEE further agrees that as an independent contractor, it assumes all responsibility for any federal, state, municipal or other tax liabilities along with workers compensation, unemployment compensation and insurance premiums that may accrue as a result of funds received pursuant to this Agreement. SUBGRANTEE agrees that it is an independent contractor for all purposes including, but not limited to, the application of the Fair Labor Standards Act, the Social Security Act, the Federal Unemployment Tax Act, the Federal Insurance Contribution Act, provisions of the Internal Revenue Code, Ohio tax law, Workers Compensation law, and Unemployment Insurance law.
- B. **Limitation of Liability.** SUBGRANTEE agrees to hold GOFBCI and ODJFS harmless in any and all claims for personal injury, property damage, and/or infringement resulting from Subgrant activities. SUBGRANTEE will reimburse ODJFS, any official or employee of ODJFS acting in his or her official capacity, and/or the State of Ohio for any judgments for infringement of patents or copyrights. GOFBCI and ODJFS's liability for damages, whether in contract or in tort, will not exceed the lesser of the total amount of funds payable to SUBGRANTEE under this Agreement or the amount of direct damages incurred by SUBGRANTEE. SUBGRANTEE's sole and exclusive remedy for any GOFBCI or ODJFS failure to perform under this Agreement will be an action in the Ohio Court of Claims pursuant to ORC Chapter 2743 that will be subject to the limitations set forth in this ARTICLE. In no event will GOFBCI or ODJFS be liable for any indirect or consequential damages, including loss of profits, even if GOFBCI or ODJFS knew or should have known of the possibility of such damages.
- C. Subject to ORC 109.02 SUBGRANTEE agrees to defend any suit or proceeding brought against GOFBCI or ODJFS, any official or employee of GOFBCI or ODJFS acting in his or her official capacity, or the State of Ohio due to any alleged infringement of patent or copyright arising out of the performance of this Contract, including all work, services, materials, reports, studies, and computer programs provided by SUBGRANTEE. GOFBCI and/or ODJFS will provide:
 1. Prompt notification in writing of such suit or proceeding;
 2. Full right, authorization, and opportunity to conduct the defense thereof; and
 3. Full disclosure of information along with all reasonable cooperation for the defense of the suit.

GOFBCI and ODJFS may participate in the defense of any such action. SUBGRANTEE agrees to pay all damages and costs awarded against GOFBCI and/or ODJFS, any official or employee of GOFBCI and/or ODJFS in his or her official capacity, or the State of Ohio as a result of any suit or proceeding referred to in this Section C. If any information and/or assistance is furnished by GOFBCI or ODJFS at SUBGRANTEE's written request, it is at SUBGRANTEE's expense. If any of the materials, reports, or studies provided by CONTRACTOR are found to be infringing items and the use or publication thereof is enjoined, CONTRACTOR agrees to, at its own expense and at its option, either procure the right to publish or continue use of such infringing materials, reports, or studies; replace them with non-infringing items of equivalent value; or modify them so that they are no longer infringing. The obligations of SUBGRANTEE under this Section survive the termination of this Agreement, without limitation.
- D. **Liens.** SUBGRANTEE will not permit any lien or claim to be filed or prosecuted against GOFBCI, ODJFS or the State of Ohio because of any labor, services, or materials furnished. If SUBGRANTEE fails, neglects, or refuses to make prompt payment of any claims for labor, services, or materials furnished to SUBGRANTEE in connection with this Agreement, GOFBCI, ODJFS or the State of Ohio may, but is not

obligated to, pay those claims and charge the amount of payment against the funds due or to become due to SUBGRANTEE under this Agreement.

- E. **Delay.** No party will be liable for any delay in performance that arises from causes beyond its control and without its negligence or fault. The delaying party will notify the other promptly of any material delay in performance and will specify in writing the proposed revised performance date as soon as practicable after notice of delay. The delaying party must also describe the cause of the delay and its proposal to remove or mitigate the delay. Notices will be sent pursuant to ARTICLE IV. In the event of excusable delay, the date of performance or delivery of products may be extended by amendment, if applicable, for a time period equal to that lost due to the excusable delay. Reliance on a claim of excusable delay may only be asserted if the delaying party has taken commercially reasonable steps to mitigate or avoid the delay. Items that are controllable by SUBGRANTEE's subcontractor(s) will be considered controllable by SUBGRANTEE, except for third-party manufacturers supplying commercial items and over whom SUBGRANTEE has no legal control. The final determination of whether an instance of delay is excusable lies with GOFBCI and ODJFS in their discretion.

ARTICLE XI. CONSTRUCTION

This Agreement will be governed, construed, and enforced in accordance with the laws of the State of Ohio. Should any portion of this Agreement be found unenforceable by operation of statute or by administrative or judicial decision, the remaining portions of this Agreement will not be affected as long as the absence of the illegal or unenforceable provision does not render the performance of the remainder of the Agreement impossible.

In the actual agreement, the signature page would follow here.

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