

ODJFS RFP # R1011-15-8025
Attachment D.

OHIO DEPARTMENT OF JOB AND FAMILY SERVICES
SUBGRANT AGREEMENT

G-00-00-0000

RECITALS

This Subgrant Agreement between the Ohio Department of Job and Family Services, (hereinafter referred to as "ODJFS") and the **Vendor Name** (hereinafter referred to as "SUBGRANTEE") is created pursuant to the Subgrant awarded by ODJFS to SUBGRANTEE. SUBGRANTEE hereby accepts the Subgrant and agrees to comply with all the terms and conditions set forth in this Agreement.

The Subgrant is made pursuant to the following federal award: **Award Title**, CFDA number _____, award number _____, which was awarded by the United States Department of _____. This Subgrant Agreement is not for research and development purposes.

- A. (Optional) ODJFS issued a Request for Application (RFA) titled, _____, numbered _____, and dated _____, which is hereby incorporated by reference.
- B. (Optional) The ODJFS proposal review team recommended for award the Application of SUBGRANTEE dated [Date] which is hereby incorporated by reference.
- C. (Optional) In the event of any inconsistency or ambiguity between the provisions of the RFA, the Application, or this Agreement, the provisions of this Agreement will determine the obligations of the parties. In the event that this Agreement fails to clarify any inconsistency or ambiguity between the RFA and the Application, the RFA 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 this dispute in keeping with the objectives of this Agreement and the budgetary and statutory constraints of ODJFS.

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 29 CFR Part 95.

ARTICLE I. PURPOSE; SUBGRANT ACTIVITIES

- A. The purpose of this Agreement is **INSERT PURPOSE**. **SUBGRANTEE will perform its responsibilities under this Agreement in accordance with the RFA and the Application**. The responsibilities ("Subgrant activities") are summarized as follows:

INSERT SPECIFIC DELIVERABLES

- B. The ODJFS Agreement Manager is **ODJFS Agreement Manager Name**.
- C. The ODJFS Agreement Manager may periodically communicate specific requests and instructions to SUBGRANTEE concerning the performance of activities described in this Agreement. SUBGRANTEE agrees to comply with any requests or instructions to the satisfaction of ODJFS within ten (10) days after

SUBGRANTEE's receipt of the requests or instructions. ODJFS and SUBGRANTEE expressly understand that any requests or instructions will be strictly to ensure the successful completion of the Subgrant activities described in this Agreement, and are not intended to amend or alter this Agreement in any way. If SUBGRANTEE believes that any requests or instructions would materially alter the terms and conditions of this Agreement or the compensation stated hereunder, SUBGRANTEE will immediately notify the ODJFS Agreement Manager pursuant to ARTICLE VI of this Agreement. SUBGRANTEE agrees to consult with the ODJFS Agreement Manager as necessary to ensure understanding of the Subgrant activities and the successful completion thereof.

- D. The subgrantee to whom this Agreement is awarded shall be deemed the subrecipient of the federal award received by ODJFS. Any provider, subcontractor, or subgrantee who receives funds from SUBGRANTEE under this Agreement is also considered a subrecipient of Federal funds and must meet the requirements of OMB Circular A-133. SUBGRANTEE is required to conduct monitoring activities consistent with OMB Circular A-133 for any provider, subcontractor, or subgrantee who receives funds from SUBGRANTEE under this Agreement.

ARTICLE II. EFFECTIVE DATE OF THE SUBGRANT

- A. This Subgrant Agreement will be in effect from **Start Date**, or upon signature of the Director of ODJFS, whichever is later, through **End Date**, unless this Agreement is suspended or terminated pursuant to ARTICLE V prior to the above termination date. **This Agreement may be renewed through [DATE], upon satisfactory completion of activities hereunder, appropriation of funds by the Ohio General Assembly, and at the sole discretion of ODJFS. ODJFS will issue a notice to SUBGRANTEE if ODJFS decides to renew this Agreement. SUBGRANTEE will not obligate resources in anticipation of a renewal until notice is provided.**
- B. In addition to Section A above, it is expressly understood by both ODJFS and SUBGRANTEE that this Agreement will not be valid and enforceable until the Director of the Office of Budget and Management, State of Ohio, first certifies, pursuant to ORC 126.07, that there is a balance in the appropriation not already allocated to pay existing obligations. The ODJFS Agreement Manager will notify SUBGRANTEE when this certification is given.

ARTICLE III. AMOUNT OF SUBGRANT/PAYMENTS

- A. The total amount of the Subgrant is **Total Dollar Amt Dollars (\$Total)** ODJFS will provide SUBGRANTEE with funds in an amount up to **[SFY1 Dollar Amt] Dollars (\$SFY1) for State Fiscal Year [SFY1] and up to [SFY2 Dollar Amt] Dollars (\$SFY2) for State Fiscal Year [SFY2]** expressly to perform the Subgrant activities described in ARTICLE I. SUBGRANTEE understands that the terms of this Agreement do not provide for compensation in excess of the total amount listed in this section. SUBGRANTEE hereby waives the interest provisions of ORC 126.30.
- B. Compensation will be made as reimbursement for actual expenditures incurred and paid by SUBGRANTEE during the billing period pursuant to SUBGRANTEE's accepted budget or cost proposal **included in the Application OR attached as Attachment ___ OR as follows [INSERT BUDGET].**

It is further agreed that reimbursement of travel expenditures shall not exceed [SFY1 Travel Dollar Amount] Dollars (\$SFY1 Travel) for SFY [SFY1] and [SFY2 Travel Dollar Amount] Dollars (\$SFY2) for SFY [SFY2], which amounts are included in the total compensation figures above. Expense reimbursement authorized by this section is limited to actual and necessary expenses subject to the limits as established pursuant to ORC 126.31, which are set forth in OAC 126-1-02, as well as any other laws, regulations, or Governor's Executive Orders limiting travel expenses. CONTRACTOR expressly agrees not to submit claims for expenses which do not meet the requirements of this section and further agrees to submit all claims to the ODJFS Contract Manager for approval prior to submitting a claim for reimbursement under ARTICLE III, above.

- C. SUBGRANTEE will submit three (3) copies of detailed invoices on a **monthly, quarterly, one-time** basis to the ODJFS Bureau of Accounts Payable at 30 East Broad Street, 38th Floor, Columbus, Ohio 43215. SUBGRANTEE agrees to use an invoice instrument to be prescribed by ODJFS and will include in each invoice:

1. SUBGRANTEE's name, complete address, and Federal Tax Identification number;
 2. Agreement number and dates;
 3. Purchase order number;
 4. Amount and purpose of the invoice;
 5. Description of activities performed during the billing period; and
 6. Receipt or other proof of costs paid by SUBGRANTEE for which SUBGRANTEE is seeking reimbursement.
- D. 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 29 CFR Part 95, including but not limited to the following federal rules:
1. Standards for financial management systems. SUBGRANTEE and its subgrantee(s) shall comply with the requirements of 29 CFR 95.21, 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 29 CFR 95.28, SUBGRANTEE and its subgrantee(s) may charge to the award only costs resulting from obligations incurred during the funding period specified in the Recitals section of this Agreement. All obligations incurred under the 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. Matching or cost sharing requirements applicable to the federal program must be satisfied by allowable costs incurred or third party in-kind contributions, as provided in 29 CFR 95.23, and subject to the qualifications, exceptions, and requirements of that section.
 4. Program Income. Program income, as defined in 29 CFR 95.24, must be used as specified in this section.
 5. Real Property. If SUBGRANTEE is authorized to use Subgrant funds for the acquisition of real property, title, use, and disposition of the real property shall be governed by the provisions of 29 CFR 95.32.
 6. Equipment. Title, use, management (including record keeping, internal control, and maintenance), and disposition of equipment acquired by SUBGRANTEE or its subgrantee(s) with Subgrant funds, shall be governed by the provisions of 29 CFR 95.34.
 7. Supplies. Title and disposition of supplies acquired by SUBGRANTEE or its subgrantee(s) with Subgrant funds shall be governed by the provisions of 29 CFR 95.35.
- E. SUBGRANTEE expressly understands that ODJFS will not compensate SUBGRANTEE for any work performed prior to SUBGRANTEE's receipt of notice from the ODJFS Agreement Manager that the provisions of ORC 126.07 have been met as set forth in ARTICLE II, nor for 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 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 131.33, which will at all times govern this Agreement, ODJFS represents that:
1. It has adequate funds to meet its obligations under this Agreement;
 2. It intends to maintain this 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 Agreement. SUBGRANTEE understands that availability of funds is contingent on appropriations made by the Ohio General Assembly or by funding sources external to the State of Ohio, such as federal funding. If the Ohio General Assembly or the external funding source fails at any time to continue funding ODJFS for the payments due under this Agreement, this Agreement will be terminated as of the date funding expires without further obligation of ODJFS or the State of Ohio.

ARTICLE IV. AUDITS OF SUBGRANTEE

- A. Subject to the threshold requirements of 29 CFR 95.26 and OMB Circular A-133, SUBGRANTEE must have an entity-wide single audit. SUBGRANTEE must send one (1) copy of every audit report to the ODJFS Office of Fiscal Services and Monitoring 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 shall automatically terminate upon expiration of the time period in ARTICLE II, upon completion of performance, or once all of the compensation has been paid.
- B. Upon thirty (30) days written notice to the other party, either party may terminate this Agreement.
- C. Notwithstanding the provision of Section A, above, ODJFS may suspend or terminate this Agreement immediately upon delivery of a written notice to SUBGRANTEE if:
1. ODJFS loses funding as described in ARTICLE III, Section G;
 2. ODJFS 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 ODJFS, 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 ODJFS requires.
- E. In the event of suspension or termination under this ARTICLE V, 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, ODJFS will base its calculations on the payment method described in ARTICLE III and any funds previously paid by or on behalf of ODJFS. 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, ODJFS reserves the right to exercise any administrative, contractual, equitable, or legal remedies available without limitation. Any waiver by ODJFS of an occurrence of breach or default is not a waiver of subsequent occurrences. If ODJFS or SUBGRANTEE fails to perform any obligation under this Agreement and the other party subsequently waives 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 ODJFS will not be effective unless it is in writing signed by the ODJFS Director.

ARTICLE VI. NOTICES

- A. 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 ODJFS Agreement Manager pursuant to ARTICLE I, Section C of this Agreement.
- B. Notices to 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 Agreements and Acquisitions at 30 East Broad Street, 31st Floor, Columbus, Ohio 43215.
- C. Notices to SUBGRANTEE from 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 ODJFS. This includes all documents, reports, data, photographs (including negatives), and electronic reports and records. ODJFS will maintain the unrestricted right to reproduce, distribute, modify, maintain, and use the media in any way ODJFS 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 ODJFS determines that certain materials are confidential under federal or state law.
- B. All ODJFS information that is classified as public or private under Ohio law and ODJFS rules will be treated as such by SUBGRANTEE. Should the nature of any information be in question, ODJFS will determine whether the information is public or private. SUBGRANTEE will restrict the use of any information, systems, or records 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 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 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. ODJFS reserves 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, 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. If applicable, SUBGRANTEE must meet the requirements of the federal Office of Management and Budget (OMB) Circulars A-110, A-122, and A-133. 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 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 ODJFS and SUBGRANTEE with respect to all matters herein. Only a writing signed by both parties may amend this Agreement. However, 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 ODJFS. SUBGRANTEE will submit any requests for approval of assignments and transfers to the ODJFS 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 ODJFS deems necessary and that no approval by ODJFS will be deemed to provide for any 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 29 CFR 95.5.
 2. **Debarment and Suspension.** As provided in 29 CFR 95.13, 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 29 CFR 95.44. 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 29 CFR 95.51.
- 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 ODJFS, any other state or government entity, and federal and state 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 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, ODJFS will consider this Agreement to be *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 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, ODJFS 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 to any 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 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 43215-3414. SUBGRANTEE further agrees that the person with the conflicting interest will not participate in any Subgrant activities until ODJFS determines 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 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 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.** To the extent allowable by law, SUBGRANTEE agrees to hold ODJFS harmless in any and all claims for personal injury, property damage, and/or infringement resulting from Subgrant activities. SUBGRANTEE's sole and exclusive remedy for any 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 ODJFS be liable for any indirect or consequential damages, including loss of profits, even if ODJFS knew or should have known of the possibility of such damages.
- C. **Infringement of Patent or Copyright.** To the extent allowable by law and subject to ORC 109.02, SUBGRANTEE agrees to defend any suit or proceeding brought against ODJFS, any official or employee of 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 Agreement, including all work, services, materials, reports, studies, and computer programs provided by SUBGRANTEE. ODJFS will provide prompt notification in writing of such suit or proceeding; full right, authorization, and opportunity to conduct the defense thereof; and full disclosure of information along with all reasonable cooperation for the defense of the suit. ODJFS may participate in the defense of any such action. SUBGRANTEE agrees to pay all damages and costs awarded against ODJFS, any official or employee of 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 ODJFS at SUBGRANTEE's written request, it is at SUBGRANTEE's expense. If any of the materials, reports, or studies provided by SUBGRANTEE are found to be infringing items and the use or publication thereof is enjoined, SUBGRANTEE 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 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, 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.** Neither party will be liable for any delay in its 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 ODJFS in its 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 actual Grant Agreement,
Signature Page Would Follow Here.**

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