

# General Provisions

## DEFINITIONS

For the purpose of this document, the following definitions apply:

- Grantor is defined as the New Jersey Department of Labor and Workforce Development, which is also referred to as LWD.
- Grantee is defined as any entity in direct receipt of funds by written instrument from LWD.
- Subgrantee is defined as any entity in receipt of funds from a grantee.
- Agreement refers to the contract with LWD, the General Provisions, and where applicable, the Standard Assurances and Certifications.

## 1) COMPLIANCE WITH EXISTING LAWS

- A) The grantee agrees to comply with all federal, state and municipal laws, rules and regulations generally applicable to the activities in which the grantee is engaged in performance of this agreement.
- B) These laws, rules and regulations include, but are not limited to the following:
- 1) Federal Office of Management and Budget (OMB) documents: <http://www.whitehouse.gov/omb/circulars>.
  - 2) New Jersey Department of the Treasury, Office of Management and Budget documents:
    - (a) Circular Letter 15-08-OMB, Single Audit Policy for Recipients of Federal Grants, State Grants and State Aid: [http://www.state.nj.us/infobank/circular/cir1508\\_omb.pdf](http://www.state.nj.us/infobank/circular/cir1508_omb.pdf).
    - (b) State Grant Compliance Supplement: <http://www.state.nj.us/treasury/omb/publications/grant/index.shtml>.
  - 3) State Affirmative Action Legal Citations: The grantee agrees to comply with and to require subgrantees to comply with N.J.A.C. 17:27, applicable provisions of N.J.S.A. 10:5 et al., P.L. 1975, c. 127 and all implementing regulations.

Customized Training - Where funding is provided in whole or in part from the Workforce Development Partnership (WDP) fund, the grantee assures and agrees that it will fully comply with the requirements of the New Jersey Employment and Workforce Development Act (P.L. 1992 c. 43) and state regulations and directives governing this program. These requirements include the following assurances:

- 1) The grantee assures that it will fully comply with all federal and state laws regarding child labor, wages, workplace and classroom safety, health standards and other laws.
- 2) The grantee agrees that if it relocates outside New Jersey or outsources employee positions within three years following the end date of the customized training contract, the grantee will promptly notify LWD and refund all money to LWD, including payments made to any subgrantee on its behalf.
- 3) The grantee agrees to retain only service providers located in the state of New Jersey to provide the customized training services funded under this agreement.

Failure to comply with the laws, rules and regulations shall be grounds for termination of this agreement.

## 2) NONDISCRIMINATION AND EQUAL OPPORTUNITY

The grantee agrees to comply with the nondiscrimination and equal opportunity provisions of the following laws:

- 1) Section 188 of the Workforce Innovation and Opportunity Act (WIOA), which prohibits discrimination against all individuals in the United States on the basis of race, color, religion, sex, national origin, age, disability, political affiliation or belief and against beneficiaries on the basis of either citizenship/status as a lawfully admitted immigrant authorized to work in the United States or participation in any WIOA financially-assisted program or activity.
- 2) Title VI of the Civil Rights Act of 1964, as amended, which prohibits discrimination on the basis of race, color and national origin.
- 3) Section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination against qualified individuals with disabilities.

- 4) The Age Discrimination Act of 1975, as amended, which prohibits discrimination on the basis of age.
- 5) Title IX of the Education Amendments of 1972, as amended which prohibits discrimination on the basis of sex in educational programs.
- 6) The Americans with Disabilities Act (P.L. 101-336) which prohibits discrimination based on disabilities in the areas of employment, public services, transportation, public accommodations and telecommunications. It requires all affected entities to provide reasonable accommodation to persons with disabilities.
- 7) The Genetic Information Nondiscrimination Act of 2008 which prohibits discrimination on the basis of genetic information.
- 8) Any other nondiscrimination provisions in the specific statute(s) under which application for federal assistance is being made and the requirements of any other nondiscrimination statute(s) which may apply to the application.

The grantee also assures that it will comply with 29 CFR Part 38 and all other regulations implementing the laws listed above.

### **3) SPECIAL GRANT CONDITIONS FOR HIGH RISK GRANTEES**

- A) A grantee may be considered high risk if LWD determines that a grantee:
  - 1) Has a history of unsatisfactory performance;
  - 2) Is not financially stable;
  - 3) Has a financial management system which does not meet the standards set forth in section 4;
  - 4) Has not conformed to terms and conditions of previous awards; and
  - 5) Is otherwise not responsible.
- B) When LWD determines that an award will be made; special conditions and/or restrictions shall correspond to the high risk condition and shall be included in the award. Special conditions and/or restrictions may include:
  - 1) Payment on a reimbursement basis;
  - 2) Withholding authority to proceed to the next phase until receipt or evidence of acceptable performance within a given funding period;
  - 3) Requiring additional, more detailed financial reports;
  - 4) Additional project monitoring;
  - 5) Requiring the grantee to obtain technical or management assistance; and
  - 6) Establishing additional prior approvals.
- C) If LWD decides to impose such special conditions and/or restrictions, an LWD official will notify the grantee as soon as possible, in writing, of:
  - 1) The nature of the special conditions and/or restrictions;
  - 2) The reason(s) for imposing the special conditions and/or restrictions;
  - 3) The corrective actions that must be taken before the special conditions and/or restrictions will be removed by LWD and the time allowed for completing the corrective actions; and
  - 4) The method of requesting reconsideration of the special conditions and/or restrictions imposed.

### **4) FINANCIAL MANAGEMENT SYSTEM**

- A) The grantee shall be responsible for maintaining an adequate financial management system and will immediately notify LWD when the grantee cannot comply with the requirements established in this section of the grant.
- B) The grantee's financial management system shall provide for:
  - 1) Financial Reporting:
 

Accurate, current and complete disclosure of the financial results of each grant in conformity with generally accepted principles of accounting and reporting in a format that is in accordance with the financial reporting requirements of the grant;

2) Accounting Records:

Records that adequately identify the source and application of funds for LWD-supported activities. These records must contain information pertaining to grant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays or expenditures and income;

3) Internal Control:

Effective internal and accounting controls over all funds, property and other assets. The grantee shall adequately safeguard all such assets and assure that they are used solely for authorized purposes;

4) Budget Control:

Comparison of actual expenditures or outlays with budgeted amounts for each grant. Also, the relationship of the financial information with performance or productivity data, including the development of unit cost information required by LWD;

5) Allowable Costs:

Procedures for determining reasonableness, allowability and allocability of costs generally consistent with the provisions of federal and state requirements;

6) Source Documentation:

Accounting records that are supported by source documentation; and

7) Cash Management:

Procedures to minimize the time elapsing between the advance of funds from LWD and the disbursement by the grantee, whenever funds are advanced by LWD.

C) LWD may require the submission of a Statement of Adequacy of the Accounting System, as provided in Chapter II-2 of the **One-Stop Comprehensive Financial Management Technical Assistance Guide**, available at [http://www.doleta.gov/grants/pdf/FinalTAG\\_August\\_02.pdf](http://www.doleta.gov/grants/pdf/FinalTAG_August_02.pdf).

D) LWD may review the adequacy of the financial management system of any applicant as part of a pre-award review or at any time subsequent to the award. If LWD determines that the grantee's accounting system does not meet the standards described in paragraph B above, additional information to monitor the grant may be required by LWD upon written notice to the grantee, until such time as the system meets with LWD approval.

## 5) ALLOWABLE COSTS

Funds expended in this project shall be those as stated in the agreement for the purposes and functions outlined, unless changed by an approved modification. The grantee shall be entitled only to reimbursement for actual expenses incurred or obligated during the agreement period or during an approved extension agreed upon by the grantee and LWD, and only in the amount specified in the agreement. All obligations shall be liquidated by the period provided in the agreement and per federal and state requirements.

Grantees who are government, educational or nonprofit organizations must comply with federal cost principles as established in the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. These regulations establish government-wide cost principles, including a requirement that salaries and wages charged to this agreement be supported by appropriate personnel activity reports and meet the requirements of 2 CFR 200.430(i) Standards for Documentation of Personal Expenses.

The grantee is responsible for the proper withholding and payment of employment-related taxes for any individual hired or otherwise employed by the grantee who meets the definition of employee in accordance with N.J.S.A. 43:21-19(i)(6).

Should any funds under this agreement be used for the purpose of satisfying any grantee or subgrantee pooled costs (i.e., general and administrative or indirect), it is the sole responsibility of the grantee to provide documentation substantiating such cost. It is incumbent upon the grantee to provide sufficient documentation regarding such requests including documentation of its development and components and approval by the appropriate cognizant agency. LWD reserves the right to cap and deny any requests associated with pooled costs (i.e., general and administrative or indirect). Funding of the budgeted amount of the pooled costs in this agreement does not imply approval by LWD of the amount or method of calculation.

## **6) MATCHING AND COST SHARING**

The grantee shall be required to account to the satisfaction of LWD for matching and cost sharing requirements in accordance with the agreement and federal and state requirements.

## **7) PROGRAM INCOME**

Program income shall be defined as gross income earned by the grantee from grant-supported activities. Such earnings include, but will not be limited to, income from service fees, sale of commodities, usage or rental fees and royalties on patents and copyrights.

- A) If a grantee receives interest earned of \$250 or more in a fiscal year on advances of grant funds, see Chapter II-7-3 of the **One-Stop Comprehensive Financial Management Technical Assistance Guide**.
- B) Unless otherwise provided or specified, the grantee shall have no obligation to LWD with respect to royalties received as a result of copyrights or patents produced under the grant.
- C) All other program income earned during the grant period shall be retained by the grantee and used in accordance with Chapter II-7 of the **One-Stop Comprehensive Financial Management Technical Assistance Guide**.

## **8) PRICE WARRANTY**

The grantee warrants that the prices agreed upon are not less favorable than those currently extended to any other customer for the same or similar articles in similar quantities. The grantee extends the same terms and conditions as extended to its most favored customers and final price includes all common reductions for discounts, rebates or other incentives. All goods procured under this agreement shall be name brand, first quality, new parts, unless otherwise specified.

## **9) PAYMENT METHOD**

- A) Payments to the grantee or on behalf of the grantee shall be issued only after the agreement has been executed. The grantee will provide sufficient documentation that action has been taken to carry out the terms and conditions of the agreement. Upon receipt of the requisite financial and narrative reports and other forms required by LWD and upon appropriate certification by the director of finance and accounting of LWD, LWD will pay the grantee per the agreement's payment schedule.
- B) A Payment Voucher (Form PV 6/93) form will be submitted in a form satisfactory to LWD, with supporting documentation that the contracted services are operational and will continue to be for the period specified in the agreement. At its discretion, LWD may request additional reports.

## **10) REPORTING REQUIREMENTS**

The grantee agrees to provide all reports specified in the agreement within the established timeframe and to the satisfaction of LWD. Financial reports are to be reported on the accrual basis of accounting.

## **11) STATE MONITORING, EVALUATION AND AUDIT**

The following sections A to E pertain to all governmental, non-profit organizations and for-profit organizations:

- A) The grantee agrees to cooperate with any monitoring, evaluation and/or audit conducted by LWD or their designees and authorized agents.
- B) The grantee will maintain its records and accounts in such a way as to facilitate the preparation of financial statements in accordance with generally accepted accounting principles and the audits thereof and ensure that subgrantees also maintain records which are auditable. The grantee is responsible for any disallowed costs resulting from any audit exceptions incurred by its own organization or that of its subgrantees.
- C) LWD reserves the right to build upon the audit received. Interim audits may be conducted at the discretion of LWD.
- D) The grantee agrees to provide full access to their books and records and to submit to any audit or review of financial and compliance requirements of LWD.
- E) The grantee agrees to include in the engagement letter or agreement with any independent audit firm language that LWD is granted access to any and all workpapers that support or address any and all findings that are in regards to LWD funds.

The following sections F to M pertain to all governmental and non-profit organizations:

- F) All grantees that expend \$750,000 or more in federal financial assistance or state financial assistance within their fiscal year must have annual single audits or program-specific audits performed in accordance with Subpart F – Audit Requirements of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards and state policy.
- G) All grantees that expend less than \$750,000 in federal or state financial assistance within their fiscal year, but expend \$100,000 or more in state and/or federal financial assistance within their fiscal year, must have either a financial statement audit performed in accordance with Government Auditing Standards (Yellow Book) or a program-specific audit performed in accordance with Subpart F – Audit Requirements of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards and state policy.
- H) Program-specific audits in accordance with Subpart F – Audit Requirements of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards can be elected when a grantee expends federal or state awards under only one federal or state program and the federal or state program's statutes, regulations, or terms and conditions of the grant award do not require a financial statement audit of the recipient.
- I) All grantees that expend less than \$100,000 in federal or state financial assistance within their fiscal year, but expend \$50,000 or more in federal or state financial assistance within their fiscal year must have a special report applying agreed upon procedures including, but not limited to, reviewing and testing the cost and expenses incurred for which reimbursement was requested to determine their propriety under the contract and review of the training records which substantiate training was completed in accordance with the contracts. The procedures to be followed will be provided by the department's Office of Internal Audit.
- J) Although Subpart F – Audit Requirements allows specific provisions for biennial audits; state policy continues to require all audits to be performed on an annual basis.
- K) In addition to federal-required reports and opinions, grantee single audits must contain similar reports and opinions for state funds.
- L) Grantee single audit reports must include a supplementary schedule of the entity's state grant and state financial assistance programs. This schedule must show for each program:
  - State Grantor Organization;
  - Program Title/Name;
  - State Grant Award Number or Account Number;
  - Grant Award Period;
  - Fiscal Year Grant Expenditures;

- Total Grant Expenditures to Date.

The following section M pertains to for-profit organizations:

- M) All grantees that expend \$50,000 or more in federal or state financial assistance within their fiscal year must have either:
- A grant specific audit in accordance with Government Auditing standards (Yellow Book), or;
  - A financial audit report conducted under generally accepted auditing standards which includes a separate report on compliance with contractual provisions, or;
  - A special report applying agreed upon procedures including, but not limited to, reviewing and testing the cost and expenses incurred for which reimbursement was requested to determine their propriety under the contract and review of the training records which substantiate training was completed in accordance with the contracts. The procedures to be followed will be provided by the Department's Office of Internal Audit.

## 12) RECORDS

The grantee agrees to collect, maintain and, upon request, report equal opportunity information, including sex, age, disability, ethnicity, and race, for all individuals who apply for benefits or services financially assisted by the program. Such records must include, but are not limited to, records on applicants, registrants, eligible applicants and registrants, participants, ex-participants, employees and applicants for employment. The grantee agrees to record the race, ethnicity, sex, age and where known, disability status of every applicant, registrant, eligible applicant and registrant, participant, ex-participant, applicant for employment and employee. The grantee further agrees to comply with the requirements of 2 C.F.R 200.79 and 2 C.F.R 200.82 which governs the use of personally identifiable information (PII). Such information must be stored in a manner that ensures confidentiality and must be used only for the purposes of recordkeeping and reporting; determining eligibility, where appropriate; determining the extent to which the grantee is operating the program or activity in a nondiscriminatory manner; or other use authorized by law. Where designation of individuals by race or ethnicity is required, the guidelines of the Office of Management and Budget must be used.

Retention – The grantee agrees to maintain all records pertinent to all grants, contracts and agreements, including financial, statistical, property and participant records and supporting documentation for a period of seven years from the date of the final expenditure report. The aforementioned records will be retained beyond the seven years if any litigation or audit is begun or if a claim is instituted involving the grant or agreement covered by the records. In these instances, the records will be retained until the litigation, audit or claim has been finally resolved. The grantee agrees to insure that subgrantees retain records in accordance with these requirements. In the event of the termination of the relationship between grantee and subgrantees, the grantee shall be responsible for the maintenance and retention of the records of any subgrantees unable to retain them.

Access – LWD may investigate any matter it deems necessary to determine compliance with state policy and/or procedures. The investigations authorized by this provision may include examining records (including making certified copies thereof), questioning employees and entering any premises or onto any site in which any part of a program of the grantee is conducted or in which any of the records of the grantee are kept.

## 13) PROCUREMENT STANDARDS

Procurement of supplies, equipment and other services with funds provided by this agreement shall be accomplished in a manner generally consistent with federal and state requirements.

Adherence to the standards contained in the applicable federal and state laws and regulations does not relieve the grantee of the contractual responsibilities arising under its procurements. The grantee is the responsible authority, without recourse to LWD, regarding the settlement and satisfaction of all contractual and administrative issues arising out of procurement entered in support of a grant.

## 14) PROPERTY

The grantee is responsible and accountable for all equipment and property purchased with funds under this agreement, including purchases made by any subgrantee receiving payments on behalf of the grantee. A current inventory of such property and equipment, with a value of \$1,000 or more, shall be maintained by the grantee. Procedures for property records are outlined in the state of New Jersey Treasury Circular 11-19, <http://www.state.nj.us/infobank/circular/cir1119b.pdf>, and the grantee shall follow those procedures. The grantee agrees to provide the same security and safekeeping measures for property paid for under this agreement as the grantee provides for the same or similar property owned by the grantee. The grantee agrees to impose similar conditions upon any subgrantee engaged to provide services under this agreement.

All documents, patents, copyrights, data, studies, surveys, drawings, maps, models, photographs, films, duplicating plates, reports, plans and other materials prepared by the grantee in connection with the project are the property of LWD. Such material will be delivered to LWD upon request.

If the project is funded under WDP, all documents, patents, copyrights, data, studies, surveys, drawings, maps, models, photographs, films, duplicating plates, reports, plans and other materials prepared by the grantee in connection with the grant are the property of said grantee. However, LWD retains the authority to review such material for the limited purpose of determining the extent and quality of performance under the grant. Such materials shall be reviewed by LWD upon notice given to the grantee and shall promptly be made available to LWD for inspection. LWD agrees to take all reasonable steps necessary to safeguard the grantee's proprietary interest in these materials.

In addition, if the aforementioned items are developed pursuant to a grant or contract funded in whole or in part by federal funds, the federal agency which provided the funds reserves a paid-up, nonexclusive and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use for federal purposes: i) the copyright in all products developed under the grant, including a subgrant or contract under the grant or subgrant, and ii) and rights of copyright to which the grantee, subgrantee or a contractor purchases ownership under an award (including but not limited to curricula, training models, technical assistance products, and any related materials). Such uses include, but are not limited to, the right to modify and distribute such products worldwide by any means, electronically or otherwise. If applicable, the following needs to be on all products developed in whole or in part with grant funds in accordance with the WIOA Annual Financial Agreement:

This workforce product was funded by a grant awarded by the U.S. Department of Labor's Employment and Training Administration. This product was created by the grantee and does not necessarily reflect the official position of the U.S. Department of Labor. The Department of Labor makes no guarantees, warranties, or assurances of any kind, express or implied, with respect to such information, including any information on linked sites and including, but not limited to, accuracy of the information or its completeness, timeliness, usefulness, adequacy, continued availability, or ownership. This product is copyrighted by the institution that created it. Internal use by an organization and/or personal use by an individual for non-commercial purposes are permissible. All other uses require the prior authorization of the copyright owner.

## 15) TRAVEL AND CONFERENCES

Conferences or seminars conducted by the grantee shall be held at the grantee's facilities or at public facilities whenever possible. The rate of reimbursement for mileage allowed for employees of the grantee or subgrantee(s) traveling by personal automobile on official business shall be the rate set by the grantee's policies that are in effect at the time of travel and may not exceed the Internal Revenue Service's standard mileage rate in effect at the time of the travel. If the grantee has an executed collective bargaining agreement, the mileage rate shall not exceed the current Internal Revenue Service's standard mileage rate. The current standard mileage rate can be found at the following website: <http://www.irs.gov/Tax-Professionals/Standard-Mileage-Rates>.

Reimbursements for meals, lodging and travel shall be in accordance with the grantee or subgrantee(s) written travel reimbursement policies not to exceed [Federal](#) per diem rates in effect at the time of the travel. The current per diem rates can be found at the following website: <http://www.gsa.gov/portal/category/100120>.

## **16) SUBCONTRACTING**

The grantee will perform all terms and conditions of this agreement unless a provision allowing the subcontracting of work is contained in the agreement. All terms and conditions applicable to the grantee apply to any subcontractors or third parties hired by the grantee. None of the work or services covered by this agreement shall be contracted or subcontracted without the prior written approval of LWD. Any work or services contracted or subcontracted out hereunder shall be specified in detail by written contract or subcontract. The grantee agrees to impose similar conditions upon any subgrantee to ensure their compliance with all the terms and conditions of this agreement. LWD \*retains the authority to review and approve or disapprove all contracts or subcontracts executed to provide the services for which the funds are being provided. At LWD's request, the grantee will promptly forward copies of any contracts or subcontracts and fiscal, programmatic and other material pertaining to said subgrantee.

## **17) MODIFICATIONS**

Modification to the agreement will be made in accordance with procedures prescribed by LWD effective at the time of submission of the modification.

- A) The grantee agrees to submit a written modification for approval prior to changing any budget line item contained in this agreement.
- B) LWD and grantee agree to make any changes to this agreement only through a written modification.
- C) All modifications to this agreement will be appended to and become part of this agreement.

## **18) DISPUTES**

The grantee agrees to attempt to resolve disputes arising from this agreement by administrative process and negotiations in lieu of litigation. The grantee assures performance of this agreement while any dispute is pending.

Any dispute which is not settled by informal means shall be decided by LWD, who shall reduce the decision to writing and mail or otherwise furnish a copy thereof to the grantee. The grantee shall be afforded an opportunity to be heard and to offer evidence in support of its position. Pending final decision of a dispute hereunder, the grantee shall proceed diligently with the performance under the agreement.

The dispute resolution mechanism described in this section is not exclusive. LWD and grantee preserve all rights in law and equity to pursue any claims that may arise.

This agreement shall be governed by and construed and enforced in accordance with the laws of the state of New Jersey.

## **19) SEVERABILITY**

If any one or more provisions of the agreement are finally adjudicated to be unlawful or unenforceable by a court of competent jurisdiction, then this agreement shall be construed as if such unlawful provisions had not been contained herein.

## **20) TERMINATION**

- A) Termination for Convenience – LWD or grantee may request a termination for any reason. LWD or grantee shall give 90 days' advance notice, in writing, to the other parties to this agreement of the effective date of such termination. The grantee shall be entitled to receive just and equitable compensation for any services satisfactorily performed hereunder through the date of termination.
- B) Termination for Cause – LWD may terminate this agreement when it has determined that the grantee has failed to provide the services specified, or has failed to comply with any of the provisions contained in this agreement or approved application, or otherwise breached the terms of this agreement. If the grantee fails to perform in whole or in part under this agreement, or fails to make sufficient progress so as to endanger performance, or otherwise breaches the terms of this agreement, LWD will notify the other parties to this agreement of such unsatisfactory

performance or breach in writing. The grantee has 10 working days in which to respond with a plan agreeable to LWD for correction of the deficiencies. If the grantee does not respond within the appointed time with corrective plans satisfactory to LWD, LWD will serve a termination notice on the grantee which will become effective within 10 days after receipt. In the event of such termination, LWD shall only be liable for payment for services rendered prior to the effective date of the termination, provided such services are performed in accordance with the provisions of this agreement.

C) Termination or Reduction of Funds

- 1) The grantee agrees that major changes to this agreement, both in terms of program content and funding levels, may be required prior to its implementation or during the term of its operations due to new or revised legislation or regulations. The grantee agrees that any such changes deemed necessary by the commissioner of LWD shall be immediately incorporated into this agreement.
- 2) Unearned payments under this agreement may be suspended or terminated upon refusal to accept or satisfy any additional conditions that may be imposed by LWD at any time.

**21) CONTRACT CLOSEOUT**

A) The following definitions shall apply for the purpose of this section:

- 1) Contract Closeout – The closeout of an agreement is the process by which LWD determines that all applicable administrative actions and all required work of the agreement have been completed by the grantee.
- 2) Date of Completion – The date by which all activities under the agreement are completed, or the expiration date in the grant award document, or any supplement or amendment thereto.

B) The grantee shall submit a closeout package per the terms of the agreement, unless otherwise extended by LWD, after completion of the agreement period or termination of the agreement. Closeout forms will be supplied by LWD.

C) The grantee will, together with the submission of the closeout package, refund to LWD any unexpended funds or unobligated (unencumbered) cash advances except such sums as have been otherwise authorized, in writing, by LWD to be retained.

D) Within the limits of the agreement amount, LWD may make a settlement for any upward or downward adjustments of costs after the final reports are received.

E) The grantee is responsible for those costs found to be disallowed, including those of any subgrantee paid from funds under this agreement, and LWD retains the right to recover any appropriated amount after fully considering the recommendations on disallowed costs resulting from the final audit, even if a final audit has not been performed prior to the closeout of the agreement.

F) The grantee shall account for any property received from LWD or acquired with funds under this grant, including any property received or acquired by a subgrantee under this grant.

**22) PERFORMANCE**

The grantee assures performance will be in accordance with, and within the period of, this agreement and will immediately report any conditions that may adversely affect performance to LWD as soon as they become known. Any fraud or suspected fraud involving granted funds must be reported to LWD within 48 hours of its discovery.

**23) CONFLICTS OF INTEREST**

The grantee shall avoid organizational conflicts of interest or the appearance of conflicts of interest in the conduct of procurement activities. Any gratuities offered by the grantee, its agent or representative to any officer, director or employee of LWD with a view toward securing this agreement or securing favorable treatment with respect to the

awarding, amending or the making of any determination will render the agreement voidable at the option of LWD, and may justify further action under applicable state and/or federal laws.

## **24) BONDING AND INSURANCE**

The grantee shall ensure that every officer, director or employee who is authorized to act on behalf of the grantee for the purpose of receiving funds into program accounts or issuing financial documents, checks or other instruments of payment is bonded to provide protection against loss.

## **25) AVAILABILITY OF FUNDS**

The grantee shall recognize and agree that both the initial provision of funding and the continuation of such funding under the agreement is expressly dependent upon the availability to LWD of funds appropriated by the state Legislature from state and/or federal revenue or such other funding sources as may be applicable. A failure of LWD to make any payment under this agreement or to observe and perform any condition on its part to be performed under the agreement as a result of the failure of the Legislature to appropriate shall not in any manner constitute a breach of the agreement by LWD or an event of default under the agreement and LWD shall not be held liable for any breach of the agreement because of the absence of available funding appropriations. In addition, future funding shall not be anticipated from LWD beyond the duration of the award period set forth in the agreement and in no event shall the agreement be construed as a commitment by LWD to expend funds beyond the termination date set in the agreement.

## **26) LIABILITY**

This agreement is subject to all of the provisions of the New Jersey Tort Claims Act, N.J.S.A. 59:1-1 et seq., the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1 et seq. and the availability of appropriations.

The state of New Jersey does not carry any public liability insurance, but the liability of the state of tort claims against its employees is covered under the terms and provisions of the New Jersey Tort Claims Act. The act also creates a special self-insurance fund and provides for payment of claims against the state of New Jersey or against its employees for tort claims arising out of the performance of their duties for which the state is obligated to indemnify.

The grantee shall be solely responsible for and shall keep, save and hold the state of New Jersey harmless from all claims, loss, liability, expense or damage resulting from all mental or physical injuries or disabilities, including death to its employees or recipients of the grantee's services or to any other persons or from any damage to any property sustained in connection with the delivery of the grantee's services that results from any acts or omissions, including negligence or malpractice of any of its officers, directors, employees, agents, servants or independent contractors or from the grantee's failure to provide for the safety and protection of its employees, whether or not due to negligence, fault or default of the grantee. The grantee's responsibility shall also include all legal fees and costs that may arise from these actions. The grantee's liability under this agreement shall continue after the termination of this agreement with respect to any liability, loss, expense or damage resulting from acts occurring prior to termination.

**Grant Specific Provisions**

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above general provisions.

\_\_\_\_\_  
**Printed Name and Title**

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Date**