

GENERAL TERMS AND CONDITIONS

SECTION 1 - Legal Authority

The Texas Workforce Commission (hereinafter identified as the Agency) is responsible for administering an integrated workforce development system, including job training, employment, employment-related educational programs, and the unemployment compensation insurance program, under the authority of Texas Labor Code § 302.021. Pursuant to Texas Labor Code § 302.002(b), the Agency shall have the authority to enter into contracts and administer programs.

SECTION 2 - Purpose

This grant award sets forth the responsibilities and obligations of the Agency, the other party(ies) to this grant (hereinafter identified as the Grantee), and its Fiscal Agent (if different from the Grantee), with respect to the implementation and administration of the program defined within the Statements of Work.

SECTION 3 – Order of Precedence

This Grant Award between the Agency and the Grantee consists of the documents listed in the Table of Contents. Documents on this list include all amendments. In the event of a conflict of terms, precedence shall be given to the federal terms and conditions included in the documents. In the event and to the extent any provisions contained in the multiple documents address the same or substantially the same matter but do not actually conflict, the most recent provisions shall be deemed to have superseded earlier provisions. All Grant provisions, however, are subject to control by

the latest amendment and most specific provision and by the applicable state and federal laws, rules and regulations.

SECTION 4 - Grant Performance

4.1 The Grantee agrees to perform under this grant award in accordance with the commitments established within the Statements of Work.

Services under this award shall be provided in compliance with:

4.1.1 all applicable federal and state laws, regulations, and rules;

4.1.2 all Agency policies and procedures or guidance materials incorporated herein by specific reference; and

4.1.3 all terms and conditions of this grant award.

4.2 The Grantee has, or shall obtain within forty-five (45) days, personnel capabilities necessary to implement project requirements and to ensure compliance with this grant award.

4.3 The Grantee shall notify the Agency in writing, within ten (10) calendar days, of any change in key personnel assigned to the implementation and administration of this grant award.

(Key personnel are defined for the purposes of this grant award, as those personnel whose oversight and guidance is essential to the work being performed hereunder and whose knowledge, qualifications, and experiences are critical to the achievement of the objectives of this grant award.)

4.4 In consideration of the Grantee's full and satisfactory performance of the specified services, the Agency shall be liable to the Grantee in accordance with the terms and limitations established within the attachments to this grant award.

- 4.5 Except with respect to defaults of contractors or subrecipients, no liability or loss of rights hereunder shall result to either party from delay or failure in performance (including any failure by the grantee to progress in the performance of the work) if such failure arises out of causes beyond the reasonable control and without the default or negligence of the party affected. Such causes may include but are not limited to acts of God, acts of a public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, serious labor disputes, shortage of or inability to obtain material or equipment, and unusually severe weather. In every case, however, the failure to perform must be beyond the control and without the fault or negligence of the party affected.

SECTION 5 - Administrative Requirements

- 5.1 This grant award shall be construed, interpreted, and applied in accordance with the laws of Texas, excluding its choice of law rules.
- 5.2 If any of the provisions of this grant award shall contravene or be invalid under the laws of the United States or the State of Texas, such contravention or invalidity shall not invalidate the entire grant award. It shall be construed as if not containing the particular provision or provisions held to be invalid, and the rights and obligations of the parties shall be construed and enforced accordingly. The Grantee and the Agency shall endeavor to agree on a mutually acceptable alternative provision.

In the event of a conflict between such laws and regulations and the terms and conditions of this grant award, precedence shall be given to the laws and regulations.

- 5.3 This grant award between the Grantee and the Agency shall conform to the administrative requirements found in:
- 5.3.1 The Office of Management and Budget (OMB) Uniform Guidance (UG), 2 Code of Federal Regulations (C.F.R.) Part 200, as supplemented by the Uniform Grant Management Standards (UGMS);
 - 5.3.2 Commission Rules in 40 Texas Administrative Code (TAC) Part 20;
 - 5.3.3 the Agency's Financial Manual for Grants and Contracts (FMGC); and
 - 5.3.4 any directives specified by Agency issuance except as otherwise specifically authorized by the Agency in writing.
- 5.4 All costs must conform to cost principles found in:
- 5.4.1 OMB UG, 2 C.F.R. Part 200, or 48 C.F.R. Part 31 (as applicable), as supplemented by the Rules promulgated by UGMS;
 - 5.4.2 the Agency's FMGC; and
 - 5.4.3 other Agency directives, as applicable.
- 5.5 In addition to the other requirements herein, commercial organizations will be subject to the administrative provisions of 48 C.F.R. § 31.103 and the cost principles and procedures in 48 C.F.R. Part 31, Subpart 31.2. The process for determining reimbursable costs in contracts with commercial organizations shall incorporate the cost principles and procedures in 48 C.F.R. Part 31, Subpart 31.2.

SECTION 6 - Bonding Requirements

- 6.1 The funds provided by this grant award shall be included in coverage

provided by a fidelity bond that indemnifies the Agency against loss arising from a fraudulent or dishonest act of the Grantee's officers and employees holding positions of fiduciary trust.

- 6.2 The Grantee shall obtain a bond sufficient to cover the largest cumulative amount of all cash requests submitted by a grantee on any given day or the cumulative amount of funds on hand at any given point. This determination shall be made by aggregating the cumulative amounts drawn from the Agency by the Grantee during any consecutive three-day period.

Under no circumstances shall the Agency disburse to the Grantee an amount of cash that exceeds the bond amount.

- 6.3 The bond shall be executed by a corporate surety or sureties holding certificates of authority, authorized to do business in the State of Texas, and acceptable to the Agency.

If a surety upon a bond loses its authority to do business in the State of Texas, or the bond is cancelled, reduced, or otherwise amended, the Grantee shall immediately notify the Agency and provide a replacement bond adequate to cover the terms and conditions of this section. Until such time that, an adequate replacement bond is secured by the insurer and provided to the Agency, no further disbursements shall be made to the Grantee.

- 6.4 The Grantee shall be the insured entity and the Agency shall be the assigned certificate holder. A copy of the bond shall be forwarded to:

Texas Workforce Commission
Financial Operations - Contracts Payable
101 East 15th Street

Austin, Texas 78778 - 0001

- 6.5 The failure of the Grantee to provide evidence of the required bond within fifteen (15) calendar days of the beginning date of this grant award may result in termination of the grant award.
- 6.6 The Grantee will include the substance of the provisions of this section in any subcontracts for goods or services under this grant award.

SECTION 7 - Rights in Data, Products, or Inventions

- 7.1 The Agency may reproduce, prepare derivative works, distribute copies to the public, perform publicly and display publicly, by or on behalf of the Agency any data, product, or invention developed under this grant award or purchased with funds from this grant award.
- 7.2 Excluding copyrighted, licensed, and public domain software, the Grantee grants to the Agency and its designated representatives, unlimited rights to any data, databases, or data processing programs first developed, produced, or delivered under this grant award. Such data includes recorded information regardless of form or media.
- 7.3 Upon termination of this grant award, whether for cause or convenience, all finished or unfinished documents, records, reports, photographs, etc. prepared by the Grantee shall, at the option of the Agency, become the property of the Agency.

In the event of such termination, the Grantee may be requested to transfer title and deliver to the Agency any property or products the Grantee has acquired or produced in performance of the grant award.

- 7.4 All data and rights necessary to fulfill the Grantee's obligations to the Agency under this grant award must be secured and obtained from its contractors or subrecipients.

If a contractor or subrecipient refuses to accept terms affording the Agency such rights, the Grantee shall promptly bring such refusal to the attention of the Agency.

- 7.5 The Agency and its officers, agents and employees are indemnified against liability, including costs, for infringement of any United States patent (except a patent issued upon an application that is now or may hereafter be withheld from issue pursuant to a Secrecy Order under 35 U. S. Code (U.S.C.) § 181) arising out of the manufacture or delivery of supplies, the performance of services, or the construction, alteration, modification, or repair of real property under this grant award, or out of the use or disposal by or for the account of the Agency of such supplies or construction work.
- 7.6 The Agency retains non-exclusive, nontransferable, irrevocable, paid-up license to practice, or have practiced the subject invention throughout the world with respect to any invention resulting from activities funded by this grant award in which the Grantee retains title.

SECTION 8 - Prevention of Fraud

- 8.1 The Grantee shall establish and implement procedures for preventing, reporting, investigating, and taking appropriate legal and/or administrative action concerning any fraud, program abuse, possible illegal expenditures, unlawful activity, violations of law, or Agency rules, policies, and procedures occurring under this grant award.

- 8.2 Any member of the Grantee's staff or Grantee's contractor or subrecipient's staff having knowledge of suspected fraud, program abuse, possible illegal expenditures, unlawful activity, violations of law or Agency rules, policies and procedures occurring under this grant award, shall report such information to the Agency's Office of Investigations no later than five (5) working days from the date of discovery of such act.
- 8.3 An Incident Report regarding such an act must be submitted to:
- Texas Workforce Commission
Office of Investigations
101 East 15th Street, Room 230
Austin, Texas 78778-0001
- 8.4 The Grantee shall establish and implement reasonable internal program management procedures sufficient to ensure that its employees, participants, contractors, or subrecipients are aware of the Agency's Fraud and Program Abuse Hotline (1-800-252-3642) and that Hotline posters are displayed to ensure maximum exposure to all persons associated with or having an interest in the programs or services provided under this grant award.
- 8.5 Except as provided by law or court order, the parties to this grant award shall ensure the confidentiality of all reports of violations, as listed above. Neither the Grantee nor the Agency shall retaliate against any person filing a report.
- 8.6 Upon review of submitted reports, the Agency's Office of Investigations may elevate the report to the appropriate federal authority, accept the case for investigation and/or action at the state level, or return the

case to the Grantee, or Grantee's contractor or subrecipient, for action including, but not limited to, the following:

- 8.6.1 further investigation;
 - 8.6.2 referral for prosecution under the Texas Penal Code, or other state or federal laws; and/or
 - 8.6.3 other corrective action, as may be appropriate.
- 8.7 When referred back to the Grantee, the Grantee shall ensure that a final investigation closing report is submitted to the Agency's Office of Investigations after all feasible avenues of investigation and legal and/or corrective action have been taken.

SECTION 9 - Preventing Conflict of Interest

- 9.1 The Grantee shall take every reasonable course of action to maintain integrity in the expenditure of these public funds and to avoid favoritism and questionable or improper conduct.
- 9.2 The Grantee shall administer this award in an impartial manner, free from efforts to gain personal, financial, or political benefit, tangible or intangible. The Grantee and its executive staff and employees, while administering this grant award shall avoid situations, which could give the appearance that any decision was influenced by prejudice, bias, special interest or desire for personal gain.
- 9.3 The Grantee assures that no person shall participate in any decision relating to any subcontract which affects his/her personal pecuniary interest including, but not limited to:
- 9.3.1 Employees, contractor, or subrecipients of the Grantee; or

- 9.3.2 persons who exercise any function or responsibility in the review or approval of the undertaking or carrying out of this grant award.
- 9.4 The Grantee shall maintain on file, and make available for inspection by the Agency, a statement submitted by each Grantee employee, contractor or subrecipient, or governing body member disclosing any interest, fact or circumstance, which does or may present a potential conflict of interest. Such conflict of interest disclosure statements shall be updated, as circumstances require, but at least annually.

The above paragraph shall serve as a minimum standard and shall not be construed as to limit the Grantee's authority for more restrictive governance to prevent real and/or apparent conflicts of interest.

SECTION 10 - Grant Provisions

- 10.1 The Grantee shall comply with the following:
- 10.1.1 Rehabilitation Act of 1973 § 504, 29 U.S.C. § 794, as amended;
 - 10.1.2 Titles VI and VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000d et seq., and 2000e-16, as amended;
 - 10.1.3 Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681-1688, as amended;
 - 10.1.4 The Age Discrimination Act of 1975, 42 U.S.C. § 6101 et seq., as amended;
 - 10.1.5 The Americans with Disabilities Act, 42 U.S.C. § 12101 et seq., as amended;
 - 10.1.6 Women in Apprenticeship and Non-traditional Occupations Act, 29 U.S.C. § 2501, et seq.;

- 10.1.7 Applicable provisions of the Clean Air Act, 42 U.S.C. § 7401 et seq., and the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251 et seq.;
 - 10.1.8 The rights and responsibilities for charitable and faith-based providers set forth in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) § 104, 42 U.S.C. § 604a, as applicable; and
 - 10.1.9 The Job Training or Employment Assistance Programs, Services, and Preferences Available to Veterans, as set forth in the Texas Labor Code §§ 302.151-302.153.
- 10.2 The Agency and the Grantee may not deny services under this grant award to any person and are prohibited from discriminating against any employee, applicant for employment, or beneficiary because of race, color, religion, sex, national origin, age, physical or mental disability, temporary medical condition, political affiliation or belief, or citizenship.
- 10.3 The Grantee shall ensure that the evaluation and treatment of employees and applicants for employment are free from discrimination.
- 10.4 The Grantee shall make a reasonable effort to meet the state goal on subcontracts and supplier contracts to historically underutilized businesses certified by the State of Texas, as defined in Texas Government Code § 2161.001, including any certified women or minority owned businesses or enterprises.

SECTION 11 - Contractor and Subrecipients

The Grantee assures that the performance rendered by all contractors or subrecipients shall comply with all the terms and provisions of this grant award as if the performance were rendered by the Grantee, and shall require such contractors or subrecipients to comply with all requirements, as covered in this grant award.

SECTION 12 - Records: Retention, Confidentiality, and Access

12.1 The Grantee agrees to retain financial and supporting documents, statistical records, and any other records pertinent to the services provided under this grant for which a claim or report was submitted to the Agency. These supporting records and documents must be kept for a minimum of three (3) years after final payment and all other pending matters are closed out.

12.2 The Grantee shall establish and maintain a method to secure the confidentiality of records and other information relating to clients in accordance with applicable federal and state laws, rules, and regulations. This provision shall not be construed, as limiting the Agency's right of access to client case records or other information relating to clients served under this contract.

12.3 The Grantee shall grant access and the right to examine, copy, or mechanically reproduce, all reports, books, papers, documents, automated data systems, and other records pertaining to this contract from Monday through Friday, between the hours of 8:00 a.m. and 5:00 p.m., local time, excluding state or federal holidays. Such rights of access and examination are granted to the duly authorized representatives of:

12.3.1 the United States Department of Agriculture;

12.3.2 the United States Department of Education;

12.3.3 the United States Department of Health and Human Services;

12.3.4 the United States Department of Labor;

12.3.5 the Comptroller General of the United States;

12.3.6 the General Accounting Office;

12.3.7 the Auditor of the State of Texas;

12.3.8 the Agency; and

12.3.9 other state and federal auditing agencies.

12.4 Such rights to access shall continue as long as the Grantee retains the records.

12.5 The Agency, and any of its authorized representatives, shall have timely and reasonable access to all Grantee records and personnel related to this agreement for the purpose of inspection, monitoring, auditing, evaluation, interview, and discussion.

12.6 Texas Public Information Act:

12.6.1 Information, documentation, and other material in connection with this application or any resulting grant award may be subject to public disclosure pursuant to Texas Government Code, Chapter 552 (the "Public Information Act").

12.6.2 All information submitted in the application is subject to public disclosure pursuant to the Public Information Act. In the event of a request for information pertaining to the application, TWC will comply with the provisions of the Public Information Act to protect the interests of the State of Texas. The Public Information Act allows the public to have access to information in the possession of a governmental body. Therefore, the Applicant/Grantee must clearly identify any confidential or proprietary information on the page on which it appears in the application and reference

the specific exception to disclosure in the Public Information Act that applies. Proprietary information identified by the Applicant/Grantee in advance will be kept confidential to the extent permitted by state law. Any information not clearly identified as confidential or proprietary shall be deemed to be subject to disclosure pursuant to the Public Information Act.

12.6.3 All information, documentation and other material in connection with the application or any resulting grant award will be retained by TWC for the period specified in the Records Retention Schedule created under Texas Government Code, Chapter 441. The information will not be returned to the Applicant/Grantee who submitted it during the retention period time.

12.6.4 In accordance with Texas Government Code § 2252.907, Grantee is required to make any public information created or exchanged with the State pursuant to any grant award with TWC, and not otherwise excepted from disclosure under the Texas Public Information Act, available in a format that is accessible by the public at no additional charge to TWC.

SECTION 13 - Monitoring, Audits, and Evaluations

13.1 The Grantee shall supply to the Agency an audit that is in compliance with the Single Audit Act of 1984, as amended July 1996, 31 U.S.C., Chapter 75, and OMB UG, 2 C.F.R. Part 200, Subpart F, applicable at the time costs were incurred.

13.2 The Agency reserves the right to conduct, or cause to be conducted, an independent audit of all funds received by the Grantee under this grant award. Such an audit may be performed by the local government audit staff, a certified public accounting firm, or other auditors as designated by the Agency and must be conducted in accordance with

applicable federal rules and regulations, grant award guidelines, and established professional standards and practices.

13.3 The Grantee understands that acceptance of funds under this grant award acts as acceptance of the authority of the State Auditor's Office (SAO), or any successor agency, to audit or investigate the expenditure of funds under this grant award or any subcontract. The Grantee further agrees to cooperate fully with the SAO or its successor, including providing all records requested. The Grantee will ensure that this clause concerning the authority to audit funds received indirectly by contractors or subrecipients through the Grantee and the requirement to cooperate is included in any subcontract it awards.

13.4 The Grantee shall develop and maintain a contractor or subrecipient monitoring system, acceptable to the Agency, covering any subcontract it awards from this grant award.

Complete records of all monitoring performed by the Grantee shall be maintained and made available to the Agency during such subcontract performance periods and for as long thereafter as an unresolved deficiency may require.

13.5 The Agency reserves the right to conduct or cause a designee to conduct monitoring and evaluation studies of the performance of the Grantee or any contractor or subrecipient for services rendered under this grant award.

The Agency retains the right to perform such monitoring and evaluation studies that it determines necessary and will report preliminary results to the Grantee and any contractor or subrecipient

before the monitoring and evaluation is concluded and the final results are made a matter of record.

13.6 If a charitable or faith-based organization who is a contractor or subrecipient to the Grantee establishes a separate account for the government funds provided through this grant award, then only the services and activities supported by those funds will be subject to audit by the Agency or its duly authorized representatives.

13.7 The Grantee shall cooperate with any audit or examination conducted pursuant to this section.

SECTION 14 - Dispute Resolution

14.1 To the extent applicable under state and federal law, a Grantee's claim for breach that the parties cannot resolve in the ordinary course of business shall be submitted to the dispute resolution process provided for in 40 TAC, Chapter 800, Subchapter K, as further described in this section.

14.1.1 To initiate the process, the Grantee shall submit written notice to the Agency's contract manager. Said notice shall specifically include the information required by 40 TAC § 800.453, as well as other supporting documentation or other tangible evidence to facilitate the Agency's evaluation of the Grantee's claim.

14.1.2 Neither the execution of this grant award by the Agency nor any other conduct of any representative of the Agency relating to this grant award or the dispute resolution process described herein shall be considered a waiver of sovereign immunity to suit.

14.2 Neither the occurrence of an event nor the pendency of a claim constitutes grounds for the suspension of performance by the Grantee, in whole or in part.

SECTION 15 – Sanctions and Penalties

15.1 The Grantee acknowledges and accepts that special conditions may be imposed by the Agency, and certain enforcement remedies exercised (set forth within OMB UG, 2 C.F.R. Part 200), if the Grantee has been designated as a "high risk" grantee.

Special conditions or restrictions could include:

- 15.1.1 payment on a reimbursement basis;
- 15.1.2 withholding authority to proceed to the next project phase until receipt of evidence of acceptable performance;
- 15.1.3 additional and more detailed financial reporting;
- 15.1.4 additional project monitoring;
- 15.1.5 requiring the Grantee to obtain technical or management assistance;
- 15.1.6 establishing additional prior approvals; or
- 15.1.7 other conditions or restrictions appropriate to the circumstances.

15.2 The Grantee acknowledges and accepts that failure of the Grantee to comply with any provision of this grant award, whether stated in a federal or state statute or regulation, Commission rules, an assurance, a certification, an application or Agency policies or procedures referenced in a grant award may subject the Grantee to sanctions and enforcement or remedial measures appropriate to the circumstances, including temporary withholding of cash payments, disallowance of

costs, whole or partial suspension of the award, withholding of further awards, or other remedies that may be legally available.

SECTION 16 - Appeals

Any sanctions or penalties imposed under this grant may be appealed pursuant to Texas Government Code, Chapter 2260.

SECTION 17 - Changes and Amendments

- 17.1 This grant award, and all documents or subsequent agreements referenced herein, is the entire agreement between the parties. All oral or written agreements between the parties hereto relating to the subject matter of this grant award that were made prior to the execution of this grant award have been reduced to writing and are contained or referenced herein.
- 17.2 Any alterations, additions, or deletions to the terms of this grant award required by changes in federal or state law or by regulations are automatically incorporated into this grant award without written amendment hereto, and shall become effective on the date designated by such law or regulation.
- 17.3 To ensure effective performance under this grant award, all parties agree that the Agency may amend performance requirements during this grant period, to interpret or clarify a change in federal or state law, rules or regulations, by issuing formal directives to establish or clarify such performance requirements.
- 17.3.1 After a period of no less than thirty (30) days subsequent to written notice (unless more rapid implementation is required by law) such formal directives shall have the effect of qualifying

the terms of this grant award and shall be binding upon the Grantee and the Agency as if written herein.

17.3.2 Such Agency directives shall not alter the terms of this grant award to relieve the Agency of any obligation specified in this grant award to reimburse the Grantee for costs properly incurred prior to the effective date of such formal directives.

17.4 Except as specifically provided by Sections 17.1, 17.2 and 17.3 of these General Terms and Conditions, any additions, alterations, deletions, or extensions, to the terms of this grant award shall be by amendment hereto in writing and executed by all parties to this grant award except for budget line item changes which shall be processed pursuant to Section 1.6 of Attachment B of this grant award. Any other attempted changes, including oral modifications, written notices that have not been signed by all parties, or other modifications of any type, shall be invalid.

17.5 The Agency reserves the sole option to renew or extend this grant award after the initial period. Such renewal will be based upon a compliance review and the Agency's continuing need for the services. The Grantee may submit a written request that the Agency consider a renewal or extension. Such written request must be received by the Agency no later than thirty (30) calendar days prior to the expiration of this grant award.

SECTION 18 - Termination

18.1 This grant award may be terminated, in whole or in part, by the Agency whenever it determines that such termination is in its best interests.

18.2 When justified, either party may terminate this grant award for cause, pending completion of any reports or audits required by the Agency. Such termination shall be effective upon receipt of written notification of termination, provided no less than sixty (60) days in advance.

SECTION 19 - Certifications

The Grantee certifies compliance with the federal, state and Agency requirements set forth in the Special Terms and Conditions and the Certifications (Attachment C) of this grant award.

SECTION 20- Whistleblower Protection

Pursuant to 41 U.S.C. § 4712, Grantees may not discharge, demote, or discriminate against employees for reporting information that employee reasonably believes is evidence of gross mismanagement of a federal grant or contract, gross waste of federal funds, abuse of authority relating to a federal grant or contract, a substantial and specific danger to public health or safety, or a violation of a law, rule, or regulation relating to a federal contract or grant. Employees subject to adverse action in violation of this section may file a complaint with the Office of the Inspector General no later than three years from the date of the adverse action. Grantees must provide written notification of these whistleblower protections to employees performing on covered contracts.

**SPECIAL FEDERAL AWARD TERMS AND CONDITIONS WORKFORCE
INNOVATION AND OPPORTUNITY ACT TITLE I
PY 2022**

Pursuant to the terms of the Federal award, and to 2 Code of Federal Regulations (C.F.R.) §§ 200.101(b)(2) and 200.332(a)(2), these Special Terms and Conditions pass through Terms and Conditions of the Federal award, which are not set forth elsewhere in this grant award. This grant award must be used in compliance with the following Federal Terms and Conditions in addition to the other provisions of this grant award.

A. Availability of Federal Award Terms

In some cases, Federal grant funds become available to the Texas Workforce Commission (TWC) for award before TWC obtains the associated Federal Award Terms for the monies. When award execution does not allow for delay, TWC may base the Special Federal Award Terms and Conditions for a grant award on the most recent prior Federal Award Terms and Conditions available, and later amend the TWC grant award when updated Federal terms are available. This action is most often used when Federal Award Terms and Conditions are not expected to differ significantly from the most recent prior terms available at the time TWC makes award.

B. Definitions

As used in these Special Federal Award Terms and Conditions: (1) the term, non-Federal entity, has the meaning defined in 2 C.F.R. Parts 200 and 2900; and (2) the term, subrecipient, has the meaning defined in 2 C.F.R. Part 200.

C. Order of Precedence

In the event of any inconsistency between the terms and conditions of this grant award and other requirements, the following order of precedence shall apply:

- 1.** Workforce Innovation and Opportunity Act (WIOA);
- 2.** Other applicable Federal Statutes;
- 3.** Consolidated Appropriations Act, 2022 (Public Law 117-103) dated March 15, 2022;
- 4.** Implementing Regulations;
- 5.** Executive Orders (EOs) and Presidential Memoranda;
- 6.** Office of Management and Budget (OMB) Guidance, including the Uniform Guidance at 2 C.F.R. parts 200 and 2900;
- 7.** DOL-ETA Directives including but not limited to Adult, Dislocated Worker and Youth Activities program allotments for Program Year 2022, as transmitted via Training and Employment Guidance Letter (TEGL) No. 9-21 issued by the United States (U.S.) Department of Labor (DOL) Employment and Training Administration (ETA);
- 8.** The terms and conditions of the Federal award, as included in this Grant Award as the Special Federal Award Terms and Conditions; and,
- 9.** The terms and conditions of this TWC grant award.

D. Fund Use

The funds that are provided under this grant award must be expended according to all applicable Federal statutes, regulations and policies, including those of WIOA, the applicable approved WIOA State plan (including approved modifications/amendments to the plan) and any waiver plan approved under WIOA § 189(i)(3), or any Workforce Flexibility (Workflex) plan approved under WIOA § 190; the negotiated performance levels and policies established pursuant to the Labor Secretary's authority under WIOA § 116; and the applicable provisions in the appropriations act(s).

E. Resources and Information

Additional resources and information are located on the Resources page of the DOL-ETA website at <https://www.dol.gov/agencies/eta/grants/resources> and on the Grants Application and Management collection page located on WorkforceGPS.org at <https://grantsapplicationandmanagement.workforcegps.org/>.

These sites contain information about the Uniform Guidance, grant terms and conditions, financial reporting, indirect costs, recipient training resources, and other relevant information.

F. Cost Limitation Restrictions

- 1. Consultants.** For the purposes of this award, the DOL-ETA Grant Officer has determined that fees paid to a consultant who provides services under a program shall be limited to \$750 per day (representing an eight-hour work day). Such costs must be reasonable, allocable and allowable to the program. Any fees paid in excess of this amount cannot be paid without prior approval from the

DOL-ETA Grant Officer.

Note: Subrecipients having need to exceed the limit must request prior approval to do so by submitting the request to the TWC Grant Manager assigned to this award. TWC will submit such requests to the DOL-ETA Grant Officer, as appropriate.

Subrecipients under this award shall not submit prior approval requests directly to DOL-ETA.

- 2. Travel (Prior Approval).** The Federal award waives the prior approval requirement for domestic travel as contained in 2 C.F.R. § 200.475. For domestic travel to be an allowable cost, it must be necessary, reasonable, allocable and conform to the non-federal entity's written policies and procedures.
- 3. Travel (Fly America Act).** All travel must comply with the Fly America Act (49 U.S.C. § 40118), which states in part that any air transportation, regardless of price, must be performed by, or under a code-sharing arrangement with, a U.S. Flag air carrier if service provided by such carrier is available.
- 4. Travel (Foreign).** Funds that are awarded and authorized to carry out an activity under WIOA subtitle B cannot be used for foreign travel.
- 5. Travel (Mileage Reimbursement Rates).** Pursuant to 2 C.F.R. § 200.475(a), all subrecipients must have policies and procedures in place related to travel costs; however, for reimbursement on a mileage basis, this Federal award cannot be charged more than the maximum allowable mileage reimbursement rates for Federal employees for transportation by privately-owned automobile and

privately-owned motorcycle. Mileage rates must be checked annually on the U.S. General Services Administration (GSA) Web site at www.gsa.gov/mileage to ensure compliance.

Note: Additional state travel requirements may apply.

G. Audits

The audit provisions contained elsewhere in this grant award are inclusive of Federal award terms requiring that organization-wide or program-specific audits shall be performed in accordance with Subpart F, the Audit Requirements of the Uniform Guidance. DOL-ETA award recipients and subrecipients including for-profit and foreign entities that expend \$750,000 or more in a year from any Federal awards must have an audit conducted for that year in accordance with the requirements contained in 2 C.F.R. § 200.501. OMB's approved exception at 2 C.F.R. § 2900.2 expands the definition of "non-Federal entity" to include for-profit entities and foreign entities. For-profit and foreign entities that are recipients or subrecipients of a DOL award must adhere to the Uniform Guidance at 2 C.F.R. Part 200, including Subpart F.

H. Closeout Requirements

During the closeout process, the Grantee must be able to provide documentation for all direct and indirect costs that are incurred. For instance, if an organization is claiming indirect costs, the documentation that is required is a Negotiated Indirect Cost Rate Agreement (NICRA) or Cost Allocation Plan (CAP) issued by the grantee's Federal cognizant agency (FCA). Documentation for those approved to utilize a de minimis rate for indirect costs is demonstrated through the grant agreement. Not having documentation for direct or indirect costs will result in costs being disallowed and subject to debt collection. (Note: Unless specified otherwise by TWC, subrecipients must maintain such documentation in

accordance with applicable record retention requirements and make it available for review upon request.)

I. Personally Identifiable Information

Grantees must recognize and safeguard personally identifiable information (PII) except where disclosure is allowed by prior written approval of the DOL Grant Officer or by court order. Grantees must meet the requirements in TEGL 39-11, Guidance on the Handling and Protection of Personally Identifiable Information (PII), found at http://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=7872.

J. Procurement

When procuring contractors for goods and services, subrecipients must follow the procurement requirements at 2 C.F.R. § 200.319, which calls for full and open competition. Subrecipients must also follow the requirements in WIOA Section 123.

K. Program Income

The "Addition" method, as described in 2 C.F.R. § 200.307, must be used in allocating any program income generated for this grant award.

Subrecipients must expend all program income prior to drawing down additional funds as required at 2 C.F.R. § 200.305(b)(5) and 2 C.F.R. § 200.307(e). Any program income found remaining at the end of period of performance must be returned to the DOL-ETA.

Note: TWC will recover any program income found remaining at the end of the grant award through the closeout process.

L. Requirements for Conference and Conference Space

Conferences funded in whole or in part by the award are allowable if the conference is necessary and reasonable for the successful performance of the Federal Award. Subrecipients are urged to use discretion and good judgment to ensure that all conference costs charged to the grant are appropriate and allowable. For more information in the requirements and the allowability of costs associated with conferences, refer to 2 C.F.R. §200.432. Subrecipients will be held accountable to the requirements in 2 C.F.R. § 200.432. Therefore, costs that do not comply with 2 C.F.R. §200.432 will be questioned and may be disallowed.

M. Subawards

A subaward means an award provided by a pass-through entity (PTE) to a subrecipient for the subrecipient to carry out part of a Federal award received by the PTE. It does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program. A subaward may be provided through any form of legal agreement, including an agreement that the PTE considers a contract.

The provisions of the Terms and Conditions of this award will be applied to any subrecipient under this award. Each pass-through entity is responsible for monitoring subrecipients, ensuring that the Terms and Conditions are in all subaward packages and that the subrecipients comply with all applicable regulations and the terms and conditions of this award (2 C.F.R. § 200.101(b)).

N. Supportive Services and Participant Support Costs

When supportive services are expressly authorized by a program statute, regulation, or federal Funding Opportunity Announcement (FOA), the Federal

award waives the prior approval requirement for participant support costs as described in 2 C.F.R. § 200.456. Costs must still meet the basic considerations at 2 C.F.R. §§ 200.402 – 200.411. Questions regarding supportive services and participant support costs should be directed to the TWC Grant Manager assigned to this TWC grant award. TWC may direct such questions to the Federal Project Officer assigned to the Federal grant, as necessary.

O. Vendor/Contractor

The term “contractor” sometimes referred to as a vendor, is a dealer, distributor, merchant or other seller providing goods or services that are required to implement a Federal program. (2 C.F.R. § 200.1) These goods or services may be for an organization’s own use or for the use of the beneficiaries of the Federal program. Additional guidance on distinguishing between a subrecipient and a contractor (vendor) is provided in 2 C.F.R. § 200.331.

P. Whistleblower Protection

This grant and employees working on this grant are subject to the whistleblower rights and remedies established at 41 U.S.C. 4712. The subrecipient shall inform its employees in writing, in the predominant language of the workforce, of employee whistleblower rights and protections under 41 U.S.C. 4712, as described in section 3.908 of the Federal Acquisition Regulation (48 C.F.R. 3.908; note that for the purpose of this term and condition, use of the term “contract,” “contractor,” “subcontract,” or “subcontractor” in section 3.908 should be read as “grant,” “grantee,” “subgrant,” or “subgrantee”). The subrecipient shall insert the substance of this clause in all subgrants and contracts over the Simplified Acquisition Threshold.

Q. Telecommunications

Title 2 C.F.R. § 200.216 Prohibition on certain telecommunications and video surveillance services or equipment.

- (a)** Recipients and subrecipients are prohibited from obligating or expending grant funds to:
 - (1)** Procure or obtain;
 - (2)** Extend or renew a contract to procure or obtain; or
 - (3)** Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, Section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).
 - (i)** For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).

- (i) the copyright in all products developed under the grant, including a subgrant or contract under the grant or subgrant; and
- (ii) any rights of copyright to which the recipient, subrecipient 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.

- 2.** Federal funds may not be used to pay any royalty or license fee for use of a copyrighted work, or the cost of acquiring by purchase a copyright in a work, where DOL/ETA has a license or rights of free use in such work, although they may be used to pay costs for obtaining a copy which is limited to the developer/seller costs of copying and shipping.
- 3.** If revenues are generated by selling products developed with grant funds, including intellectual property, these revenues are considered as program income. Therefore, program income must be used in accordance with the provisions of this grant award and 2 C.F.R. § 200.307.
- 4.** If applicable, the following needs to be on all products developed in whole or in part with grant funds:

"This workforce product was funded by a grant awarded by the U.S. Department of Labor's Employment and Training Administration. The product was created by the recipient 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."

S. Domestic Preferences for Procurements

As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of 2 C.F.R. Part 200.322 must be included in all subawards including all contracts and purchase orders for work or products under this award.

T. Federal Appropriations Requirements

1. Fair Labor Standards Act Amendment for Major Disasters.

Pursuant to Pub. L. 117-103, Division H, Title 1, Section 108, the Fair Labor Standards Act of 1938 ("FLSA") will apply as if the following language was added to section 7 (the "Maximum Hours Worked" section). This language specifically relates to occurrences of a major disaster (as declared or designated by the State or Federal government) and are applied for a period of two years afterwards.

The language is as follows:

*"(s)(1) The provisions of this section [maximum hours worked] shall not apply for a period of 2 years after the occurrence of a major disaster to any employee—
employed to adjust or evaluate claims resulting from or relating to such major disaster, by an employer not engaged, directly or through an affiliate, in underwriting, selling, or marketing property, casualty, or liability insurance policies or contracts;
who receives from such employer an average weekly compensation of not less than \$591.00 per week or any minimum weekly amount established by the Secretary, whichever is greater, for the number of weeks such employer is engaged in any of the activities described in subparagraph (C); and whose duties include any of the following:*

- (i) interviewing insured individuals, individuals who suffered injuries or other damages or losses arising from or relating to a disaster, witnesses, or physicians;*
- (ii) inspecting property damage or reviewing factual information to prepare damage estimates;*
- (iii) evaluating and making recommendations regarding coverage or compensability of claims or determining liability or value aspects of claims;*
- (iv) negotiating settlements; or*
- (v) making recommendations regarding litigation.*

(2) The exemption in this subsection shall not affect the exemption provided by section 13(a)(1) [of the FLSA].

(3) For purposes of this subsection—

- (A) the term 'major disaster' means any disaster or catastrophe declared or designated by any State or Federal agency or department;*

(B) the term 'employee employed to adjust or evaluate claims resulting from or relating to such major disaster' means an individual who timely secured or secures a license required by applicable law to engage in and perform the activities described in clauses (i) through (v) of paragraph (1)(C) relating to a major disaster, and is employed by an employer that maintains worker compensation insurance coverage or protection for its employees, if required by applicable law, and withholds applicable Federal, State, and local income and payroll taxes from the wages, salaries and any benefits of such employees; and

(C) the term 'affiliate' means a company that, by reason of ownership or control of 25 percent or more of the outstanding shares of any class of voting securities of one or more companies, directly or indirectly, controls, is controlled by, or is under common control with, another company."

- 2. Health Benefits Coverage for Contraceptives.** Federal funds may not be used to enter into or renew a contract which includes a provision for prescription drug coverage unless the contract also includes a provision for contraceptive coverage. This requirement does not apply to contracts with 1) the religious plans of Personal Care's HMO and OSF HealthPlans, Inc.; and 2) any existing or future plan if the carrier for the plan objects to such coverage on the basis of religious beliefs. In implementing this section, any plan that enters into or renews a contract may not subject any individual to discrimination on the basis that the individual refuses to prescribe or otherwise provide for contraceptives because such activities would be contrary to the individuals' religious beliefs or moral convictions. Nothing in this term shall be construed to require coverage of abortion or abortion related services.

3. **Privacy Act.** No funds can be used in contravention of 5 U.S.C. § 552a (Privacy Act) or regulations implementing the Privacy Act.
4. **Prohibition on Contracting with Corporations with Felony Criminal Convictions.** Subrecipients may not knowingly enter into a contract, memorandum of understanding, or cooperative agreement with, make a subgrant to, or provide a loan or loan guarantee to, any corporation that was convicted of a felony criminal violation under any Federal law within the preceding 24 months.
5. **Prohibition on Contracting with Corporations with Unpaid Tax Liabilities.** Subrecipients may not knowingly enter into a contract, memorandum of understanding, or cooperative agreement with, make a subgrant to, or provide a loan or loan guarantee to, any corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.
6. **Prohibition on Procuring Goods Obtained Through Child Labor.** No funds may be obligated or expended for the procurement of goods mined, produced, manufactured, or harvested or services rendered, in whole or in part, by forced or indentured child labor in industries and host countries identified by the DOL prior to December 20, 2019. DOL has identified these goods and services on its website at <https://www.dol.gov/agencies/ilab/research-impact-evaluation>.
7. **Reporting of Waste, Fraud and Abuse.** No entity receiving federal

funds may require employees or contractors of such entity seeking to report fraud, waste, or abuse to sign internal confidentiality agreements or statements prohibiting or otherwise restricting such employees or contractors from lawfully reporting such waste, fraud, or abuse to designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information.

- 8. Requirement for Blocking Pornography.** Pursuant to Pub. L. 117-103, Division H, Title V, Section 520, no Federal funds may be used to maintain or establish a computer network unless such network blocks the viewing, downloading, and exchanging of pornography.
- 9. Requirement to Provide Certain Information in Public Communications.** Pursuant to Pub. L. 117-103, Division H, Title V, Sections 505, when issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with Federal money, all non-Federal entities receiving Federal funds shall clearly state:

 - A.** The percentage of the total costs of the program or project which will be financed with Federal money;
 - B.** The dollar amount of Federal funds for the project or program; and
 - C.** The percentage and dollar amount of the total costs of the project or program that will be financed by non-governmental sources.

The requirements of this part are separate from those in 2 C.F.R. Part 200 and, when applicable, both must be complied with.

10. Restriction on Health Benefits Coverage for Abortions.

Pursuant to Pub. L. 117-103, Division H, Title V, Sections 506 and 507, federal funds may not be expended for health benefits coverage that includes coverage of abortions, except when the abortion is due to a pregnancy that is the result of rape or incest, or in the case where a woman suffers from a physical disorder, physical injury, including life- endangering physical conditions caused by or arising from the pregnancy itself that would, as certified by a physician, place the women in danger of death unless an abortion is performed.

This restriction does not prohibit any non-Federal entity from providing health benefits coverage for abortions when all funds for that specific benefit do not come from a Federal source.

Additionally, no funds made available through this award may be provided to a State or local government if such government subjects any institutional or individual health care entity to discrimination on the basis that the health care entity does not provide, pay for, provide coverage of or refer for abortions.

11. Restrictions on Lobbying/Advocacy. Pursuant to Pub. L. 117-103, Division H, Title V, Section 503, no federal funds may be used by subrecipients, other than for normal and recognized executive-legislative relationships, to engage in lobbying or advocacy activities (including publicity or propaganda purposes or for the preparation of any publication or electronic communication) designed to support or

defeat the enactment of federal, state, or local legislation, regulations, appropriations, order, or other administrative action, except in presentation to Congress or a State or local legislature itself or for participation by an agency or officer of a State, local or tribal government in policymaking and administrative processes within the executive branch of that government.

12. Publicity. Pursuant to Pub.L. 117-103, Division H, Title V, Section 503, subrecipient is not authorized to use any funds provided under this grant award—other than for normal and recognized executive-legislative relationships-- for publicity or propaganda purposes, for the preparation, distribution or use of any kit, pamphlet, booklet, publication, radio, television or film presentation designed to support or defeat legislation pending before the Congress or any state or local legislature or legislative body, except in presentation to the Congress or any state or local legislature itself, or designed to support or defeat any proposed or pending regulation, administrative action, or order issued by the executive branch of any state or local government, except in presentation to the executive branch of any state or local government itself.

13. Restriction on the Promotion of Drug Legalization. Pursuant to Pub. L. 117-103, Division H, Title V, Section 509, no Federal funds shall be used for any activity that promotes the legalization of any drug or other substance included in schedule I of the schedules of controlled substances established under section 202 of the Controlled Substances Act except for normal recognized executive-congressional communications or where there is significant medical evidence of a therapeutic advantage to the use of such drug or other substance or that federally sponsored clinical trials are being conducted to

determine therapeutic advantage.

- 14. Restriction on Purchase of Sterile Needles or Syringes.** Pursuant to Pub. L. 117-103, Division H, Title V, Section 526, no Federal funds shall be used to purchase sterile needles or syringes for the hypodermic injection of any illegal drug.

- 15. Salary and Bonus Limitations.** Pursuant to Pub. L. 117-103, Division H, Title 1, Section 105, subrecipients shall not use funds to pay the salary and bonuses of an individual, either as direct costs or as indirect costs, at a rate in excess of Executive Level II. The Executive Level II salary may change yearly and is located on the U.S. Office of Personnel Management website (<https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/>).

The salary and bonus limitation does not apply to contractors (vendors) providing goods and services as defined in 2 C.F.R. §200.331. Where States are recipients of such funds, States may establish a lower limit for salaries and bonuses of those receiving salaries and bonuses from subrecipients of such funds, taking into account factors including the relative cost-of-living in the State, the compensation levels for comparable State or local government employees, and the size of the organizations that administer Federal programs involved including Employment and Training Administration programs. Refer to TEGL No. 5-06 for further clarification.

Note: For additional information about the salary and bonus limitation, refer to TWC Workforce Development Letter 28-07, Change 1, and any subsequent issuances.

U. Public Policy

- 1. Architectural Barriers.** The Architectural Barriers Act of 1968, 42 U.S.C. §§ 4151 et seq., as amended, the Federal Property Management Regulations (see 41 C.F.R. Part 102-76), and the Uniform Federal Accessibility Standards issued by GSA (see 36 C.F.R. Part 1191, Appendices C and D) set forth requirements to make facilities accessible to, and usable by, the physically handicapped and include minimum design standards. All new facilities designed or constructed with grant support must comply with these requirements.

- 2. Drug-Free Workplace.** The Drug-Free Workplace Act of 1988, 41 U.S.C. §§ 702 et seq., and 2 C.F.R. Part 182 require that all organizations receiving grants from any Federal agency maintain a drug-free workplace. Refer to the Drug-Free Workplace Certification applicable to this grant award for notification and other requirements. Failure to comply with these requirements may be cause for suspension or debarment.

- 3. Executive Orders.**
 - A. Subcontracting/Subgranting Opportunities to certain Entities and Individuals (EO 12928).** Pursuant to EO 12928, subrecipients are strongly encouraged to provide subcontracting/subgranting opportunities to Historically Black Colleges and Universities and other Minority Institutions such as Hispanic-Serving Institutions and Tribal Colleges and Universities; and to Small Businesses Owned and Controlled by Socially and Economically Disadvantaged Individuals.

- B. Seat Belt Use (EO 13043).** Pursuant to EO 13043, Increasing Seat Belt Use in the United States, dated April 16, 1997, subrecipients are encouraged to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented, or personally owned vehicles.
- C. Improving Access to Services for Persons with Limited English Proficiency (EO 13166).** As clarified by EO 13166, Improving Access to Services for Persons with Limited English Proficiency, dated August 11, 2000, and resulting agency guidance, national origin discrimination includes discrimination on the basis of limited English proficiency (LEP).

To ensure compliance with Title VI of the Civil Rights Act of 1964, subrecipients must take reasonable steps to ensure that LEP persons have meaningful access to programs in accordance with DOL's Policy Guidance on the Prohibition of National Origin Discrimination as it Affects Persons with Limited English Proficiency [05/29/2003] Volume 68, Number 103, Page 32389- 32305. Meaningful access may entail providing language assistance services, including oral and written translation, where necessary.

Subrecipients are encouraged to consider the need for language services for LEP persons served or encountered both in developing budgets and in conducting programs and activities. For assistance and information regarding LEP obligations, go to the Federal Government's interagency

website on Limited English Proficiency at <http://www.lep.gov>.

- D. Text Messaging While Driving (EO 13513).** Pursuant to EO 13513, Federal Leadership on Reducing Text Messaging While Driving, dated October 1, 2009, subrecipients are encouraged to adopt and enforce policies that ban text messaging while driving company-owned or -rented vehicles, or government-owned vehicles, or while driving personally-owned vehicles when on official Government business or when performing any work for or on behalf of the Government. Subrecipients are also encouraged to conduct initiatives of the type described in section 3(a) of EO 13513.
- E. Ensuring the Future of Made in All of America by All of America's Workers (EO 14005).** Pursuant to EO 14005, subrecipients agree to comply with all applicable Made in America Laws (as defined in this EO), including the Buy American Act at 41 U.S.C. §§ 8301 – 8303. For the purposes of this award, the subrecipient is required to maximize the use of goods, products, and materials produced in, and services offered in, the United States, in accordance with the Made in America Laws. No funds may be made available to any person or entity (including as a contractor or subrecipient of the grant recipient) that has been found to be in violation of any Made in America Laws.

“Made in America Laws” means all statutes, regulations, rules, and Executive Orders relating to Federal financial assistance awards or Federal procurement, including those that refer to “Buy America” or “Buy American” that require, or provide a

preference for, the purchase or acquisition of goods, products, or materials produced in the United States, including iron, steel, and manufactured goods offered in the United States. Made in America Laws include laws requiring domestic preference for maritime transport, including the Merchant Marine Act of 1920 (Pub.L 66-261), also known as the Jones Act.

- 4. Flood Insurance.** The Flood Disaster Protection Act of 1973, as amended, 42 U.S.C. §§ 4001 et seq., provides that no Federal financial assistance to acquire, modernize, or construct property may be provided in communities in the United States identified as flood-prone, unless the community participates in the National Flood Insurance Program and flood insurance is purchased within one year of the identification. The flood insurance purchase requirement applies to both public and private applicants for the DOL support. Lists of flood-prone areas that are eligible for flood insurance are published in the Federal Register by the U.S. Department of Homeland Security, Federal Emergency Management Agency (FEMA).
- 5. Hotel-Motel Fire Safety.** Pursuant to 15 U.S.C. § 2225a, subrecipients must ensure that all space for conferences and conventions or training seminars funded in whole or in part with federal funds complies with the protection and control guidelines of the Hotel and Motel Fire Safety Act (Pub. L. 101-391, as amended). Subrecipients may search the Hotel Motel National Master List at <https://apps.usfa.fema.gov/hotel/> to see if a property is in compliance, or to find other information about the Act.
- 6. Prohibition on Trafficking in Persons.** Grant award funds shall be

used in compliance with the federal requirements against Prohibition on Trafficking persons found in the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), which prohibits grant award recipients or a subrecipient from: (1) Engaging in severe forms of trafficking in persons during the period of time that the award is in effect; (2) Procuring a commercial sex act during the period of time that the award is in effect; or (3) Using forced labor in the performance of the award or subawards under the award.

The following language must be included in all subawards:

“I. Trafficking in persons.

a. *Provisions applicable to a recipient that is a private entity.*

1. You as the recipient, your employees, subrecipients under this award, and subrecipients’ employees may not—
 - i. Engage in severe forms of trafficking in persons during the period of time that the award is in effect;
 - ii. Procure a commercial sex act during the period of time that the award is in effect; or
 - iii. Use forced labor in the performance of the award or subawards under the award.
2. We as the Federal awarding agency may unilaterally terminate this award, without penalty, if you or a subrecipient that is a private entity—
 - i. Is determined to have violated a prohibition in paragraph a.1 of this award term; or
 - ii. Has an employee who is determined by the agency official authorized to terminate the award to have violated a prohibition in paragraph a.1 of this award term through conduct that is either—

- A. Associated with performance under this award; or
 - B. Imputed to you or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 C.F.R. Part 180, "OMB Guidelines to Agencies on Government wide Debarment and Suspension (Nonprocurement)," as implemented by our agency at 2 C.F.R. Part 2998.
- b. *Provision applicable to a recipient other than a private entity.* We as the Federal awarding agency may unilaterally terminate this award, without penalty, if a subrecipient that is a private entity—
- 1. Is determined to have violated an applicable prohibition in paragraph a.1 of this award term; or
 - 2. Has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in paragraph a.1 of this award term through conduct that is either—
 - i. Associated with performance under this award; or
 - ii. Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 C.F.R. Part 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," as implemented by our agency at 2 C.F.R. Part 2998.
- c. *Provisions applicable to any recipient.*
- 1. You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in paragraph a.1 of this award term.
 - 2. Our right to terminate unilaterally that is described in paragraph a.2 or b of this section:

- i. Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), and
 - ii. Is in addition to all other remedies for noncompliance that are available to us under this award.
 3. You must include the requirements of paragraph a.1 of this award term in any subaward you make to a private entity.
- d. *Definitions.* For purposes of this award term:
 1. "Employee" means either:
 - i. An individual employed by you or a subrecipient who is engaged in the performance of the project or program under this award; or
 - ii. Another person engaged in the performance of the project or program under this award and not compensated by you including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.
 2. "Forced labor" means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjections to involuntary servitude, peonage, debt bondage, or slavery.
 3. "Private entity":
 - i. Means any entity other than a State, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 C.F.R. 175.25.
 - ii. Includes:
 - A. A nonprofit organization, including any nonprofit

institution of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe at 2 C.F.R. 175.25(b).

B. A for-profit organization.

4. "Severe forms of trafficking in persons," "commercial sex act," and "coercion" have the meanings given at section 103 of the TVPA, as amended (22 U.S.C. 7102)."

7. Veterans' Priority Provisions. The Jobs for Veterans Act (Pub. L. 107- 288) requires subrecipients to provide priority service to veterans and spouses of certain veterans for the receipt of employment, training, and placement services in any job training program directly funded, in whole or in part, by the DOL. The regulations implementing this priority of service can be found at 20 C.F.R. Part 1010. In circumstances where a grant recipient must choose between two qualified candidates for a service, one of whom is a veteran or eligible spouse, the veterans' priority of service provisions require that the grant recipient give the veteran or eligible spouse priority of service by first providing him or her that service. To obtain priority of service, a veteran or spouse must meet the program's eligibility requirements. Subrecipients must comply with the DOL guidance on veterans' priority. ETA's TEGL No. 10-09 provides guidance on implementing priority of service for veterans and eligible spouses in all qualified job training programs funded in whole or in part by DOL.

8. Promoting Equitable Delivery of Government Benefits and Equal Opportunity. DOL seeks to affirmatively advance equity, civil rights and equal opportunity in the policies, programs, and services it provides. Therefore, consistent with Executive Order 13985,

Advancing Racial Equity and Support for Underserved Communities Through the Federal Government, grant and cooperative award recipients must execute the terms and conditions of their award in a manner that advances equity for all, including people of color and others who have been historically underserved, marginalized, and adversely affected by persistent poverty and inequality. This extends to all award activities including, but not limited to, service delivery, selection of subrecipients and contractors, and procurement of goods and services. Government programs are designed to serve all eligible individuals. As an expectation, DOL's award recipients should make the goods and services they provide widely available with the goal of effectively serving a diverse population of eligible individuals; fairly, justly, and impartially in administering the grant award. Award recipients are encouraged to engage in contracting and subcontracting for goods and services related to performing the terms and conditions of their grants in such a way to achieve equity. The term "equity" means the consistent and systematic fair, just, and impartial treatment of all individuals, including individuals who belong to underserved communities that have been denied such treatment, such as Black, Latino, and Indigenous and Native American persons, Asian Americans and Pacific Islanders and other persons of color; members of religious minorities; lesbian, gay, bisexual, transgender, and queer (LGBTQ+) persons; persons with disabilities; persons who live in rural areas; and persons otherwise adversely affected by persistent poverty or inequality.

The term "underserved communities" refers to populations sharing a particular characteristic, as well as geographic communities, that have been systematically denied a full opportunity to participate in aspects of economic, social, and civic life, as exemplified by the list in

the preceding definition of "equity."

- 9. Harassment Prohibited.** Subrecipients are prohibited from engaging in harassment of an individual based on race, color, religion, sex, national origin, age, disability, or political affiliation or belief, or, for beneficiaries, applicants, and participants only, based on citizenship status or participation in any WIOA Title I-financially assisted program or activity. Harassing conduct of this type is a violation of the nondiscrimination provisions of WIOA and of 29 CFR Part 38.

Unwelcome sexual advances, requests for sexual favors, or offensive remarks about a person's race, color, religion, sex, national origin, age, disability, political affiliation or belief, or citizenship or participation, and other unwelcome verbal or physical conduct based on one or more of these protected categories constitutes unlawful harassment on that basis(es) when:

- (A) Submission to such conduct is made either explicitly or implicitly a term or condition of accessing the aid, benefit, service, or training of, or employment in the administration of or in connection with, any WIOA title I-financially assisted program or activity; or
- (B) Submission to, or rejection of, such conduct by an individual is used as the basis for limiting that individual's access to any aid, benefit, service, training, or employment from, or employment in the administration of or in connection with, any WIOA Title I-financially assisted program or activity; or

- (C) Such conduct has the purpose or effect of unreasonably interfering with an individual's participation in a WIOA Title I-financially assisted program or activity creating an intimidating, hostile or offensive program environment.

Harassment because of sex includes harassment based on gender identity or sexual orientation; harassment based on failure to comport with sex stereotypes; and harassment based on pregnancy, childbirth, and related medical conditions. Sex-based harassment may include harassment that is not sexual in nature but that is because of sex or where one sex is targeted for the harassment.

UPSKILL TEXAS PROGRAM

CERTIFICATIONS

SECTION 1 – Lobbying

This certification is required by the Federal Regulations, implementing the Program Fraud and Civil Remedies Act 31 U.S.C. § 1352, for the Department of Agriculture (2 C.F.R. Part 418), Department of Labor (29 C.F.R. Part 93), Department of Education (34 C.F.R. Part 82), and the Department of Health and Human Services (45 C.F.R. Part 93). The Grantee certifies by executing this grant award, that the following statements are true and correct:

- 1.1** No Federal appropriated funds have been paid or will be paid, by or on behalf of the Grantee, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

- 1.2** If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the Grantee shall complete and submit Standard Form -

LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

- 1.3** The Grantee shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S.C. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

SECTION 2 - Debarment, Suspension, and Other Responsibility Matters

This certification is required by the Federal Regulations, implementing Executive Order 12549, Government-wide Debarment and Suspension, for the Department of Agriculture (2 C.F.R. Part 417), Department of Labor (2 C.F.R. Part 2998), Department of Education (2 C.F.R. Part 3485), and the Department of Health and Human Services (2 C.F.R. Part 376). The Grantee certifies by executing this grant award, that the following statements are true and correct:

- 2.1** Grantee is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency;

- 2.2** Grantee has not, within a three-year period preceding this grant award, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction; violation of Federal or State antitrust statutes, including those proscribing price fixing between competitors, allocation of customers between competitors, and bid rigging; commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice; or commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility;
- 2.3** Grantee is not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in Subsection 2.2 of this Certification; and
- 2.4** Grantee has not had, within a three-year period preceding this grant award, one or more public transactions (Federal, State, or local) terminated for cause or default.

SECTION 3 - Drug-Free Workplace

This certification is required by the Federal Regulations, implementing the Drug-Free Workplace Act of 1988, Pub.L. 100-690, §§ 5151-5160 (41 U.S.C. § 8101 et seq., as amended); for the Department of Agriculture (2 C.F.R. Part 421), Department of Labor (29 C.F.R. Part 94), Department of Education (34 C.F.R. Part 86), and the Department of Health and Human

Services (2 C.F.R. Part 382). By executing this grant award, Grantee certifies to the following:

- 3.1** Publishing a policy statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the consequences of any such action by an employee;
- 3.2** Establishing an ongoing drug-free awareness program to inform employees of the dangers of drug abuse in the workplace, the organization's policy of maintaining a drug-free workplace, the availability of drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed on employees for drug abuse violations occurring in the workplace;
- 3.3** Providing each employee with a copy of the policy statement;
- 3.4** Notifying the employees in the policy statement that as a condition of employment under this grant award, employees shall abide by the terms of the policy statement and shall notify the employer in writing within five (5) calendar days after any conviction for a violation by the employee of a criminal drug statute in the workplace;
- 3.5** Notifying the Agency in writing within ten (10) calendar days of receipt of a notice of a conviction of an employee; and
- 3.6** Within thirty (30) calendar days of learning of an employee's conviction, take appropriate personnel action against the employee, up to and including termination, consistent with the Rehabilitation Act of 1973 (29 U.S.C. § 794, as amended), or require such employee to participate in a drug abuse assistance or rehabilitation program

approved for these purposes by a Federal, State, or local health, law enforcement or other appropriate agency.

SECTION 4 - Texas Corporate Franchise Taxes

Pursuant to Texas Tax Code, Chapter 171, Subchapter F, for-profit corporations that are delinquent in making state franchise tax payments shall forfeit their corporate privileges and the right to transact business in this state. The Grantee certifies that if the Grantee's business entity is a for-profit corporation it is not delinquent in its franchise tax payments to the State of Texas.

SECTION 5 - Levies, Liens, and Unresolved Audit Exceptions

The Grantee certifies that the business entity in this grant award has no outstanding debts that will result in liens or levies being placed on payments received from the Agency and that it owes no funds to the Agency, including unresolved audit exceptions. An unresolved audit exception is an exception for which the business entity has exhausted all administrative and judicial remedies and also refuses to comply with resulting written demands for payment from the Agency.

SECTION 6 - State Assessment Certification

The Grantee certifies by executing this grant award, that both of the following statements are true and correct and that the Grantee understands making a false statement is a material breach of contract and is grounds for cancellation of this grant award:

- 6.1** The Grantee is current in Unemployment Insurance taxes, Payday and Child Labor law monetary obligations, and Proprietary School fees and assessments payable to the State of Texas.
- 6.2** The Grantee has no outstanding Unemployment Insurance overpayment balance payable to the State of Texas.

SECTION 7 – Prohibited Bids and Contracts

- 7.1** Pursuant to Texas Government Code § 2155.004, a state agency may not accept a bid or award a contract that includes proposed financial participation by a person who received compensation from the agency to participate in preparing the specifications or request for proposals on which the bid or contract is based. Under Texas Government Code § 2155.004, the Grantee certifies that the individual or business entity named in this bid or contract is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate.
- 7.2** Pursuant to Texas Government Code § 2155.006, a state agency may not accept a bid or award a contract that includes proposed financial participation by a person who, during the five-year period preceding the date of the bid or award, has been either, convicted of violating federal law or assessed a penalty in a federal civil or administrative enforcement action, in connection with a contract awarded by the federal government for relief efforts as a result of Hurricane Rita, Hurricane Katrina or any other disaster occurring after September 24, 2005 or in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts.

Under Texas Government Code § 2155.006, the Grantee certifies that the individual or business entity named in this bid or contract is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate.

SECTION 8- Unfair Business Practices

The Grantee certifies that the business entity in this grant award has not been found guilty of unfair business practices in a judicial or state agency administrative proceeding during the preceding year. The Grantee further affirms that no officer of the business entity in this grant award has served as an officer of any company found guilty of unfair business practices in a judicial or state agency administrative proceeding during the preceding year.

SECTION 9 - Texas Family Code

The Grantee certifies that the business entity in this grant award is not ineligible, pursuant to Texas Family Code § 231.006, to receive the award funds and acknowledges that this grant award may be terminated and payment may be withheld if this certification is inaccurate. If a Board member, corporate officer, individual, or controlling officer of the Grantee's fiscal agent, (as applicable) is more than thirty (30) days in arrears in the payment of an obligation to pay child support, the Grantee acknowledges that payments under the grant award may be suspended and/or the contract canceled.

SECTION 10 - Restrictions on the Use of Certain Public Subsidies

Pursuant to Texas Government Code § 2264.051, the Grantee certifies that the business, or a branch, division, or department of the business does not

and will not knowingly employ an undocumented worker as defined in Texas Government Code § 2264.001(4). The Grantee further certifies that it shall establish and implement reasonable internal program management procedures sufficient to ensure its compliance with Texas Government Code § 2264.051. The Grantee will enter into a written agreement with its subrecipient sub-contractors, working on or having an interest in the programs provided by this grant award, regarding the unlawful employment of undocumented workers and advising the subrecipient sub-contractors of the penalties that the sub-contractors will incur if convicted of the unlawful employment of undocumented workers.

Texas Government Code § 2264.052 mandates that a business convicted of a violation under 8 U.S.C. § 1324(a)(f) (unlawful employment of undocumented workers), shall repay the amount of the public subsidy with interest not later than the 120th day after the entity is notified of the violation. In accordance with Texas Government Code § 2264.053, the Agency has determined that if the Grantee is convicted of such a violation, the interest rate to be applied to the public subsidy is fifteen percent (15%). The Grantee can establish its own repayment interest rate when establishing an interest rate with any of its subrecipient subcontractors, but in no event shall such interest rate be less than the fifteen percent (15%) interest rate established by the Agency.

The Grantee's authorized representative understands and certifies that the following statements are true and correct:

10.1 that making a false statement is a material breach of contract and grounds for contract cancellation; and

10.2 that after receiving a public subsidy, if the Grantee or its subrecipient subcontractor is convicted of a violation under 8 U.S.C. § 1324a(f), relating to the unlawful employment of undocumented workers, the Grantee shall repay to the Agency the amount of the public subsidy with interest, at the rate of fifteen percent (15%).

SECTION 11 – Certification Concerning Dealings with Public Servants

The Grantee represents and warrants that it has not given, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with this grant.

SECTION 12 – Conflicts of Interest

The Grantee represents and warrants that the Grantee has no actual or potential conflicts of interest in providing services to the State of Texas under this grant and Grantee's provision of services under this grant would not reasonably create an appearance of impropriety. The Grantee must disclose any existing or potential conflict of interest it may have in contracting with the Agency.

SECTION 13 – Compliance with Antitrust Laws

Pursuant to Texas Government Code § 2155.005, the Grantee certifies that neither Grantee nor any firm, corporation, partnership, or institution represented by Grantee, or anyone acting for such a firm, corporation or institution has (1) violated the antitrust laws of the State of Texas under Texas Business & Commerce Code, Chapter 15, or the federal antitrust laws; or (2) communicated directly or indirectly the Proposal to any competitor or

any other person engaged in such line of business during the procurement process.

SECTION 14 – Compliance with Texas Government Code § 669.003

The Grantee certifies that it is in compliance with § 669.003 of the Texas Government Code, relating to contracting with executive head of a state agency.

All disclosures relevant to compliance with § 669.003 of the Texas Government Code will be subject to administrative review and approval prior to the Agency entering into any contract with Grantee. The Grantee acknowledges that the grant may be terminated at any time, and payments withheld, if this information is false.

SECTION 15 – Certification Concerning Restricted Employment for Former State Officers or Employees Under Texas Government Code § 572.069

The Grantee certifies that it has not employed and will not employ a former TWC or state officer who participated in a procurement or contract negotiation for TWC involving Grantee within two years after the state officer or employee left state agency employment or service.

This certification only applies to former state officers or employees whose state service or employment ceased on or after September 1, 2015.

SECTION 16- Prohibition on use of Appropriated Funds for Lobbying or Political Activities

The Grantee represents and warrants that the Agency's payments to Grantee and Grantee's receipt of appropriated or other funds under the

Agreement are not prohibited by Sections 556.0055 or 556.008 of the Texas Government Code.

SECTION 17 - Federal Funding Accountability and Transparency Act (FFATA)

If applicable, in accordance with the reporting requirements established by the Federal Funding Accountability and Transparency Act (FFATA) of 2006, Pub. L. 109-282, as amended by Pub. L. 110-252, title VI, § 6202(a), June 3, 2008, according to the instructions specified in WD Letter 29-12 and subsequent issuances, Grantee certifies that it will comply with WD Letter 29-12 and subsequent issuances during the term of the grant, requiring full disclosure of all entities and organizations receiving federal funds.

The Grantee certifies that its D-U-N-S® and SAM registrations will be active and current at the time of and throughout the grant award.

SECTION 18- Buy Texas

The Grantee agrees to comply with Section 2155.4441 of the Texas Government Code, requiring the purchase of products and materials produced in the State of Texas in performing service contracts.

SECTION 19- COVID-19 Vaccine Passports

Pursuant to Texas Health and Safety Code, Section 161.0085(c), Grantee certifies that it does not require its customers to provide any documentation certifying the customer's COVID-19 vaccination or post-transmission recovery on entry to, to gain access to, or to receive service from the Grantee's business. Applicant acknowledges that such a vaccine or recovery requirement would make Grantee ineligible for a state-funded contract.

SECTION 20- Foreign-Owned Companies in Connection with Critical Infrastructure

If Texas Government Code, Section 2274.0102(a)(1) (relating to prohibition on contracts granting direct or remote access to or control of critical infrastructure in this state, excluding access specifically allowed by the governmental entity for product warranty and support purposes, with certain foreign-owned companies) is applicable to a contract resulting from this Solicitation, pursuant to Government Code Section 2274.0102, Grantee certifies that neither it nor its parent company, nor any affiliate of Grantee or its parent company, is: (1) majority owned or controlled by citizens or governmental entities of China, Iran, North Korea, Russia, or any other country designated by the Governor under Government Code Section 2274.0103, or (2) headquartered in any of those countries.

SECTION 21- Cybersecurity Training

The Grantee represents and warrants that it will comply with the requirements of Section 2054.5192 of the Texas Government Code relating to cybersecurity training and required verification of completion of the training program.

SECTION 22- Disaster Recovery Plan

A Grantee in possession of vital state records, as defined in Government Code Section 441.180(13), agrees that upon request of TWC, Grantee shall provide copies of its most recent business continuity and disaster recovery plans.

SECTION 23- Excluded Parties

The Grantee certifies that it is not listed in the prohibited vendors list authorized by Executive Order 13224, "Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism," published by the United States Department of the Treasury, Office of Foreign Assets Control.

SECTION 24 - Certification

These certifications are a material representation of fact upon which reliance is placed when entering into this grant award. Signature by an authorized representative of the Grantee and return of this document to the Agency are prerequisites for finalizing the award.

Where the Grantee is unable to certify to any of the statements above, an explanation shall be attached.

The Grantee certifies that the indicated statements are true and correct and understands that making a false statement is a material breach of the grant award and is grounds for grant award cancellation.