STATE OF TEXAS	§	**PROFESSIONAL SERVICES AGREEMENT FOR APPRENTICESHIP BUILDING AMERICA MARKETING SERVICES AND COMMUNITY OUTREACH**
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COUNTY OF BEXAR	§	
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This Agreement is entered into by and between the City of San Antonio ("City"), a Texas Municipal Corporation acting by and through its City Manager or his designee, pursuant to Ordinance No. 2024-_____ passed and approved on the ___ day of _____, 2024 and Courageous Creativity ("Consultant"), an entity registered in the State of Texas acting by and through its principal, both of which may be referred to as the 'Party" or collectively as the "Parties."

RECITALS

WHEREAS, in February 2022, the US Department of Labor's Employment and Training Administration Agency (USDOL-ETA) announced the availability of funds authorized by the National Apprenticeship Act for the Apprenticeship Building America ("ABA") grant program; and

WHEREAS, to support its efforts of increase diversity and equity in apprenticeship for underrepresented populations and underserviced communities, the City of San Antonio applied for and was awarded an ABA grant from the USDOL-ETA; and

WHEREAS, with the grant, City established the San Antonio Ready to Work – Apprenticeship Building American Program ("the Program") to augment the City's San Antonio: Ready to Work job-training program by expanding training opportunities to work-based learning and to address barriers for underserved populations by providing customized wraparound services; and

WHEREAS, City wishes to partner with Consultant to provide services for the Program, namely community outreach and marketing services ("the Project"); and

WHEREAS, the purpose of this Agreement is to establish the terms and conditions under which Consultant and its subcontractors, if any, will provide the aforementioned services.

NOW THEREFORE; the Parties agree, and by the execution of this Agreement are bound, to the mutual obligations herein contained and to the performance and accomplishment of the tasks described in this Agreement.

I. DEFINITIONS

As used in this Agreement, the following terms shall have meanings as set out below:

1.1 "City" is defined in the preamble of this Agreement and includes its successors and assigns.

1.2 "Consultant" is defined in the preamble of this Agreement and includes its successors.

1.3 "Director" shall mean the executive director of City's Workforce Development Office or his/her designee.

1.4 "Update Report" shall mean weekly reports on the progress of marketing efforts of deliverables and

services rendered, as well as media coverage "recaps" following events.

1.4.1 Update Reports should include detailed descriptions of deliverables performed by the Consultant's Project staff and by approved subcontractors during the previous week in accordance with this Agreement.

1.4.2 Update Reports shall summarize any issues or problems that may adversely impact Outcomes or service delivery schedule. Whenever such contingencies arise, the Consultant shall also state in its Report its plan for prompt resolution, as time is of the essence in this Agreement.

II. TERM

2.1. Unless sooner terminated in accordance with the provisions of this Agreement, the term of this Agreement will be for a three (3) year period beginning on the date the Agreement is executed by all Parties.

2.2 It is expressly understood and agreed by Consultant that City is providing funding under this Agreement from current revenues available to City, specifically by utilizing a federally-funded Apprenticeship Building American Grant awarded to City for the purpose of expanding and modernizing Registered Apprenticeship (RAPs) through expanding the number of programs and apprentices, diversifying the industries that utilize Registered Apprenticeship, and increasing access to and completion of RAPs for underrepresented populations and underserved communities. City may terminate a contract at any time if funds are restricted, withdrawn, not approved or service is unsatisfactory. A cumulative total not to exceed ONE HUNDRED FIFTY THOUSAND DOLLARS AND NO CENTS ($150,000.00) has been contemplated and approved by City Council for this Agreement contingent upon the continued availability of grant funding and subject to City's discretion in exercising any such renewal as provided by this Section 2.2.

2.3 City shall have the right to extend this contract under the same terms and conditions beyond the original term or any renewal thereof, on a month-to-month basis, not to exceed three months. Said month to month extensions shall be in writing, signed by Director, and shall not require City Council approval, subject to and contingent upon appropriation of funding therefore.

III. SCOPE OF SERVICES

3.1 Consultant agrees to provide the services described in this Article III, entitled "Scope of Services" in exchange for the compensation described in Article IV, entitled "Compensation." The services to be provided by the Consultant and its subcontractors, if any, shall be performed in a professional manner in accordance and consistent with the scopes of work, methodologies, work plans, and costs described by City and proposed by the Consultant in the following documents:

A. Exhibit A – Scope of Work
B. Exhibit B – Scorecard

3.2 City shall have authority to inspect the Consultant's contribution to the Program throughout the Agreement term to ensure compliance with this Agreement and ensure proper usage of City Funds as prescribed by the Scope of Services. All work performed by the Consultant and its subcontractors, if any, hereunder shall be performed to the satisfaction of the Director. The determination made by the Director shall be final, binding, and conclusive on all Parties. City shall be under no obligation to pay for any work performed by the Consultant and its subcontractors, if any, which is not satisfactory to the Director. The City shall have the right to terminate this Agreement, in accordance with Article VII. Termination, in whole or in part, should the Consultant's work or work of its subcontractors, if any, not be satisfactory to the Director; however, the City shall have no obligation to terminate and may withhold payment for any unsatisfactory work, should the City elect not to terminate.

3.3 In performing the services required hereunder, Consultant shall:

3.3.1 Process, store, and transmit all sensitive data (particularly Sensitive PII as defined in Section 521 of the Texas Business And Commerce Code) captured in the performance of this Agreement in a secure manner and with appropriate technical and procedural controls. All file transmission shall be protected using a mutually-agreed-upon transmission method, which must be proposed to and approved by City within 15 days of execution of this Agreement. At any time, the City may request that Consultant provide evidence of its technical and procedural controls in a timely fashion, including but not limited to security awareness training programs, encryption protocols, and cybersecurity policies and procedures.

3.3.2 Ensure that any organizations or agencies that Consultant works with to perform the services required hereunder also adhere to and implement the technical requirements set out in this Section 3.3.

3.4 Consultant acknowledges that the funds provided pursuant to this Agreement are federal funds awarded to City through the DOL's ABA grant. By executing this Agreement and accepting responsibility for the performance of all services and activities described in this Agreement, Consultant hereby accepts administrative and fiscal responsibility for the use and documentation of expenditures of federal funds. It is the sole responsibility of Contractor to ensure compliance with all applicable federal, state, and local laws, rules, policies, and regulations in connection with this Agreement, including without limitation applicable sections of the Office of Management and Budget (OMB) Circular at 2 C.F.R. 200 et al. entitled Uniform Administration Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance), as well as the U.S. Department of the Labor's Apprenticeship Building America Award Terms and Conditions, attached hereto and incorporated for all purposes as **Attachment D**. Contractor understands that the City, in providing these funds to Consultant, must also comply with these federal requirements and depends on the Contractor's cooperation to comply. As such, Contractor shall perform any obligation necessary to ensure that the City is able to comply with 2 CFR 200 or any other federal regulation as provided herein or as otherwise as directed by City.

IV. COMPENSATION TO CONSULTANT

4.1 In consideration of the Consultant's performance in a satisfactory and efficient manner, as determined solely by the Director, of all services and activities set forth in this Agreement, the City agrees to pay the Consultant a total amount up to ONE HUNDRED FIFTY THOUSAND DOLLARS AND NO CENTS ($150,000.00) for the initial 3-year contract term as follows:

a. City agrees to pay Consultant monthly at a rate of $50 an hour ($50/hr.), provided that Consultant does not exceed the amount of proposed hours outlined below and in **Exhibit A. Scope of Work:**
   - For Year 1 – 1,250 hours at $50 per hour, not to exceed annual total of $62,500
   - For Years 2 and 3 –1,750 hours at $50 per hour, not to exceed annual total of $87,500

b. City shall have the right to increase or to decrease scope and related payments on an annual basis, based on Consultant capacity and Consultant performance, so long as the total amount does not exceed the amount set forth in Section 4.1.

4.2 No additional fees or expenses of the Consultant shall be charged by the Consultant nor be payable by the City. The Parties agree that all compensable expenses of the Consultant have been provided for in the total payment to the Consultant as specified in section 4.1 above. Total payments to the Consultant for the original contract term cannot exceed that amount set forth in Section 4.1 above, without prior approval and agreement of all Parties, evidenced in writing and approved by the San Antonio City Council by passage of an ordinance therefore.

4.3 In order to receive monthly payment, the Consultant shall submit its Update Reports as described in section 1.4 above along with its invoice, as well as any documentation required for compliance with applicable sections of 2 CFR Part 200, including but not limited to, invoices and/or sales receipts evidencing services rendered. The City shall review the Consultant's progress reports with deliverables submitted in accordance with this Agreement, and, after approval and acceptance pursuant to Section 4.4 below, of such reports, the City shall pay invoice within 30 days of receipt and approval by the Director, provided however, that in no event shall cumulative payments exceed the amount stated in Section 4.1 above. Original invoices shall be submitted electronically directly to the Accounts Payable section of the Finance Department to the following e-mail address:

accounts.payable@sanantonio.gov.

The Consultant shall submit a copy of the invoice to the City of San Antonio, Workforce Development Department liaison. Please include the WDO liaison, at workforce@sanantonio.gov in the correspondence to ensure the invoice is processed.

4.4 The City shall not be obligated or liable under this Agreement to any party, other than the Consultant, for the payment of any monies or the provision of any goods or services.

4.5 For any sum of funds paid by City later determined to have not been spent in accordance with the terms of the Agreement, City reserves the right to request return of said funds to City, which shall be returned within ten (10) working days, or shall be proportionately held from future disbursement, as decided by City.

V. OWNERSHIP OF DOCUMENTS AND CONFIDENTIALITY

Intellectual Property.

Consultant agrees to abide by the following regarding intellectual property rights:

5.1 Consultant shall pay all royalties and licensing fees. **Consultant shall hold the City harmless and indemnify the City** from the payment of any royalties, damages, losses or expenses including attorney's fees for suits, claims or otherwise, growing out of infringement or alleged infringement of copyrights, patents, materials and methods used in the Project. It shall defend all suits for infringement of any Intellectual Property rights. Further, if the Consultant has reason to believe that the design, service, process or product specified is an infringement of an Intellectual Property right, it shall promptly give such information to the City.

5.2 Upon receipt of notification that a third-party claim that the program(s), hardware or both the program(s) and the hardware infringe upon any United States patent or copyright, the Consultant will immediately either:

5.2.1 obtain, at the Consultant's sole expense, the necessary license(s) or rights that would allow the City to continue using the programs, hardware, or both the programs and hardware, as the case may be, or,

5.2.2 alter the programs, hardware, or both the programs and hardware so that the alleged infringement is eliminated, and

5.2.3 reimburse the City for any expenses incurred by the City to implement emergency backup measures if the City is prevented from using the programs, hardware, or both the programs and hardware while the dispute is pending.

5.2.4 Consultant further agrees to: assume the defense of any claim, suit, or proceeding brought against the City for infringement of any United States patent or copyright arising from the use and/or sale of the equipment or software under this Agreement,

5.2.5 assume the expense of such defense, including costs of investigations, reasonable attorneys' fees, expert witness fees, damages, and any other litigation-related expenses, and

5.2.6 **indemnify the City** against any monetary damages and/or costs awarded in such suit;

Provided that:

5.2.7 Consultant is given sole and exclusive control of all negotiations relative to the settlement thereof, but that the Consultant agrees to consult with the Attorney of the City during such defense or negotiations and make good faith effort to avoid any position adverse to the interest of the City,

5.2.8 the Software or the equipment is used by the City in the form, state, or condition as delivered by the Consultant or as modified without the permission of the Consultant, so long as such modification is not the source of the infringement claim,

5.2.9 the liability claimed shall not have arisen out of the City's negligent act or omission, and the City promptly provides the Consultant with written notice within 15 days following the formal assertion of any claim with respect to which the City asserts that the Consultant assumes responsibility under this section.

Ownership and Licenses.

5.3 In accordance with Texas law, the Consultant and its subcontractors, if any, acknowledge and agree that all local government records created or received in the transaction of official business or the creation or maintenance of which were paid for with public funds are declared to be public property and subject to the provisions of Chapter 201 of the Texas Local Government Code and Subchapter J, Chapter 441 of the Texas Government Code. Thus, no such local government records produced by or on the behalf of the Consultant pursuant to this Contract shall be the subject of any copyright or proprietary claim by the Consultant.

5.4 The term “local government record” as used herein shall mean any document, paper, letter, book, map, photograph, sound or video recording, microfilm, magnetic tape, electronic medium, or other information recording medium, regardless of physical form or characteristic and regardless of whether public access to it is open or restricted under the laws of the state, created or received by local government or any of its officials or employees pursuant to law including an ordinance, or in the transaction of official business.

5.5 Consultant and its subcontractors, if any, acknowledge and agree that all records, as described herein, collected, or produced in the course of the work required by this contract, are government records and will belong to and be the property of the City. Consultant and its subcontractors, if any, shall be required to turn over to the City all such records as required pursuant to this contract. Consultant and its subcontractors, if any, shall not, under any circumstances, release any records created during the course of performance of the contract to any entity without the City’s written permission, unless required to do so by a Court of competent jurisdiction.

Consultant and its subcontractors, if any, understand and acknowledge that as to the writings, documents, reports or information produced by Consultant and its subcontractors, if any, pursuant to this agreement, City has the right to use all such writings, documents, reports, and information as City desires, without restriction. City's rights in the materials include the right to change, edit, rearrange, subtract from, add to, and combine with any other material, in whole or in part as City and its successors and assigns determine in their sole discretion. City has no obligation to use the data, or to create, produce, distribute, exploit, advertise, or promote, or include, or to exercise any rights given by this Agreement. Consultant and its subcontractors, if any, have no right to review or approve edited materials before they are used by City or at any other time.

5.6 In accordance herewith, the Consultant and its subcontractors, if any, agree to comply with all

applicable federal, state and local laws, rules and regulations governing documents and ownership, access and retention thereof.

VI. RECORDS RETENTION

6.1 Consultant and its subcontractors, if any, shall properly, accurately and completely maintain all documents, papers, and records, and other evidence pertaining to the services rendered under this Agreement ("documents"), in a manner consistent with §200.333 Retention requirements for records of 2 CFR Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance),, and shall make such materials available to the City at their respective offices, at all reasonable times and as often as the City may deem necessary during the Agreement period, including any extension or renewal, and the record retention period established, for purposes of audit, inspection, examination, and making excerpts or copies of same by the City and any of its authorized representatives.

6.2 Consultant and its subcontractors, if any, shall retain any and all documents produced as a result of services provided hereunder for a period of four (4) years ("retention period") from the date of termination of the Agreement. If, at the end of the retention period, there is litigation or other questions arising from, involving or concerning this documentation or the services provided, the Consultant shall retain the records until the resolution of such litigation or other such questions. Consultant and its subcontractors, if any, acknowledge and agree that the City shall have access to any and all such documents at any and all times, as deemed necessary by the City**,** during said retention period. City may, at its election, require the Consultant and its subcontractors, if any, to return said documents to the City prior to or at the conclusion of said retention at the Consultant's expense.

6.3 Consultant and its subcontractors, if any, shall notify the City, immediately, in the event the Consultant or its subcontractors, if any, receives any requests for information from a third party, which pertain to the documentation and records referenced in this Agreement. Consultant and its subcontractors, if any, understand and agree that the City will process and handle all such requests.

6.4 Disclosure Requirements for Certain Government Contracts. For contracts (1) with a stated expenditure of at least $1 million in public funds for the purchase of goods or services by the City, or (2) that result in the expenditure of at least $1 million in public funds for the purchase of goods or services by the City in a given fiscal year, the Consultant and its subcontractors, if any, acknowledge that the requirements of the Texas Public Information Act, Government Code, Chapter 552, Subchapter J, pertaining to the preservation and disclosure of Contracting Information maintained by the City or sent between the City and a vendor, consultant apply to this contract. Consultant agrees that the contract can be terminated if the Consultant or its subcontractors, if any, knowingly or intentionally fails to comply with a requirement of that subchapter.

6.5 Consultant warrants and certifies, and this Agreement is made in reliance thereon, that it, has not knowingly or intentionally failed to comply with this subchapter in a previous contract. City hereby relies on the Consultant's certification, and if found to be false, the City may terminate the Contract for material breach.

VII. TERMINATION

7.1 For purposes of this Agreement, "termination" of this Agreement shall mean termination by expiration of the Agreement term as stated in Article II. Term, or earlier termination pursuant to any of the provisions of this Agreement.

7.2 Termination Without Cause. This Agreement may be terminated by the City upon 30 calendar days' written notice, which notice shall be provided in accordance with Article VIII. Notice.

7.3 Termination For Cause. Upon written notice, which notice shall be provided in accordance with Article VIII. Notice, the City may terminate this Agreement as of the date provided in the notice, in whole or in

part, upon the occurrence of one or more of the following events, each of which shall constitute an Event for Cause under this Agreement:

7.3.1 The sale, transfer, pledge, conveyance or assignment of this Agreement without prior approval, as provided in Article XII. Assignment and Subcontracting;

7.3.2 Violation by the Consultant and its subcontractors, if any, of any law, rule, or regulation to which the Consultant is bound or shall be bound under the terms of this Agreement; or

7.3.3 Bankruptcy or selling substantially all of the Consultant's assets.

7.4 Defaults With Opportunity for Cure. Should the Consultant default in the performance of this Agreement in a manner stated in this section 7.4 below, same shall be considered an event of default. City shall deliver written notice of said default specifying such matter(s) in default. Consultant shall have 15 calendar days after receipt of the written notice, in accordance with Article VIII. Notice, to cure such default. If the Consultant fails to cure the default within such fifteen-day cure period, the City shall have the right, without further notice, to terminate this Agreement in whole or in part as the City deems appropriate, and to contract with another Consultant to complete the work required in this Agreement. City shall also have the right to offset the cost of said new Agreement with a new Consultant against the Consultant's future or unpaid invoice(s), subject to the duty on the part of the City to mitigate its losses to the extent required by law.

7.4.1 Failing to perform or failing to comply with any covenant or provision required under this Agreement; or

7.4.2 Performing unsatisfactorily.

7.5 Termination By Law. If any state or federal law or regulation is enacted or promulgated which prohibits the performance of any of the duties required under this Agreement, or, if any law is interpreted to prohibit such performance, this Agreement shall automatically terminate as of the effective date of such prohibition.

7.6 Regardless of how this Agreement is terminated, the Consultant shall return all unearned payments to the City within 30 calendar days of such termination. Payments shall be deemed unearned if they are for work not accepted by the City under Sections 3.2 and 4.4.

7.7 Regardless of how this Agreement is terminated, the Consultant shall affect an orderly transfer to the City or to such person(s) or firm(s) as the City may designate, at no additional cost to the City, all completed or partially completed documents, papers, records, charts, reports, and any other materials or information produced as a result of or pertaining to the services rendered by the Consultant**,** or provided to the Consultant**,** hereunder, regardless of storage medium, if so requested by the City, or shall otherwise be retained by the Consultant in accordance with Article VI. Records Retention. Any record transfer shall be completed within 30 calendar days of a written request by the City and shall be completed at the Consultant's sole cost and expense. Payment of compensation due or to become due to the Consultant is conditioned upon delivery of all such documents, if requested.

7.8 Within 45 calendar days of the effective date of completion, or termination or expiration of this Agreement, the Consultant shall submit to the City its claims, in detail, for the monies owed by the City for services performed under this Agreement through the effective date of termination. Failure by the Consultant to submit its claims within said 45 calendar days shall negate any liability on the part of the City and constitute a **Waiver** by the Consultant of any and all right or claims to collect moneys that the Consultant may rightfully be otherwise entitled to for services performed pursuant to this Agreement.

7.9 Upon the effective date of expiration or termination of this Agreement, the Consultant shall cease all operations of work being performed by the Consultant or any of its subcontractors pursuant to this Agreement.

7.10 Termination not sole remedy. In no event shall the City's action of terminating this Agreement, whether for cause or otherwise, be deemed an election of the City's remedies, nor shall such termination limit, in any way, at law or at equity, the City's right to seek damages from or otherwise pursue the Consultant for any default hereunder or other action.

VIII. NOTICE

Except where the terms of this Agreement expressly provide otherwise, any election, notice or communication required or permitted to be given under this Agreement shall be in writing and deemed to have been duly given if and when delivered personally (with receipt acknowledged), or 3 calendar days after depositing same in the U.S. mail, first class, with proper postage prepaid, or upon receipt if sending the same by certified mail, return receipt requested, or upon receipt when sent by a commercial courier service (such as Federal Express or DHL Worldwide Express) for expedited delivery to be confirmed in writing by such courier, at the addresses set forth below or to such other address as either Party may from time to time designate in writing.

If intended for City, to:
City of San Antonio
Attn: Michael Ramsey
Workforce Development Office
100 W. Houston Street, 18th Floor
San Antonio, Texas 78205
Email: Michael.ramsey@sanantonio.gov

If intended for Consultant, to:
ABA Marketing Consultant, LLC
Attn: Eliana Mijangos-Brown
Address: 6970 Stonykirk Rd
San Antonio, TX 78240
Email: Eliana@gemstrategy.com

IX. NONDISCRIMINATION

As a party to this contract, the Consultant understands and agrees to comply with the Non-Discrimination Policy of the City of San Antonio contained in Chapter 2, Article X. of the City Code and further, shall not discriminate on the basis of race, color, religion, national origin, sex, sexual orientation, gender identity, veteran status, age or disability, unless exempted by state or federal law, or as otherwise established herein.

X. INSURANCE

10.1 No later than 30 days before the scheduled event, CONSULTANT must provide a completed Certificate(s) of Insurance to CITY's Workforce Development Office. The certificate must be:

- clearly labeled with the legal name of the event "**ABA/RTW Marketing Services Agreement**" in the Description of Operations block;
- completed by an agent and signed by a person authorized by the insurer to bind coverage on its behalf (CITY will not accept Memorandum of Insurance or Binders as proof of insurance);.
- properly endorsed and have the agent's signature, and phone number,

10.2 Certificates may be mailed or sent via email, directly from the insurer's authorized representative.

CITY shall have no duty to pay or perform under this Agreement until such certificate and endorsements have been received and approved by CITY'S Workforce Development Office. No officer or employee, other than CITY'S Risk Manager, shall have authority to waive this requirement.

10.3 If the City does not receive copies of insurance endorsement, then by executing this Agreement, CONSULTANT certifies and represents that its endorsements do not materially alter or diminish the insurance

coverage for the Event.

10.4 The City's Risk Manager reserves the right to modify the insurance coverages, their limits, and deductibles prior to the scheduled event or during the effective period of this Agreement based on changes in statutory law, court decisions, and changes in the insurance market which presents an increased risk exposure.

10.5 CONSULTANT shall obtain and maintain in full force and effect for the duration of this Agreement, at CONSULTANT'S sole expense, insurance coverage written on an occurrence basis, by companies authorized and admitted to do business in the State of Texas and with an A.M. Best's rating of no less than A- (VII), in the following types and for an amount not less than the amount listed below. If the CONSULTANT claims to be self-insured, they must provide a copy of their declaration page so the CITY can review their deductibles:

INSURANCE TYPE	LIMITS
*1. Workers' Compensation *2. Employers' Liability	Statutory $500,000/$500,000/$500,000
3. Commercial General Liability Insurance to include coverage for the following: a. Premises/Operations b. Products/Completed Operations c. Personal/Advertising Injury d. Contractual Liability *e. Independent Contractors	For Bodily Injury and Property Damage $5,000,000 per occurrence; $1,000,000 general aggregate, or its equivalent in Umbrella or Excess Liability Coverage.
4. Professional Liability (Claims-made Coverage)	$500,000 per claim damages by reason of any act, malpractice, error, or omission in the professional service. Coverage to be maintained and in effect for no less than two years subsequent to the completion of the professional service.
*5. Cyber Liability	$500,000 per claim $500,000 general aggregate, or its equivalent in Umbrella or Excess Liability Coverage
*If applicable	

10.6 CONSULTANT must require, by written contract, that all subcontractors providing goods or services under this Agreement obtain the same insurance coverages required of CONSULTANT and provide a certificate of insurance and endorsement that names CONSULTANT and CITY as additional insureds. Respondent shall provide CITY with subcontractor certificates and endorsements before the subcontractor starts work.

10.7 If a loss results in litigation, then the CITY is entitled, upon request and without expense to the City, to receive copies of the policies, declaration page and all endorsements. CONSULTANT must comply with such requests within 10 days by submitting the requested insurance documents to the CITY at the following address:

If intended for City, to:

City of San Antonio
Attn: Workforce Development Office
P.O. Box 839966
San Antonio, Texas 78283-3966

10.8 CONSULTANT's insurance policies must contain or be endorsed to contain the following provisions:

- Name CITY and its officers, officials, employees, volunteers, and elected representatives as additional insureds by endorsement, as respects operations and activities of, or on behalf of, the named insured performed under contract with CITY. The endorsement requirement is not applicable for workers' compensation and professional liability policies.

- Endorsement that the "other insurance" clause shall not apply to CITY where CITY is an additional insured shown on the policy. CITY's insurance is not applicable in the event of a claim.

- Consultant shall submit a waiver of subrogation to include, workers' compensation, employers' liability, general liability and auto liability policies in favor of CITY; and

- Provide 30 days advance written notice directly to CITY of any suspension, cancellation, non-renewal or materials change in coverage, and not less than ten (10) calendar days advance written notice for nonpayment of premium.

10.9 Within five (5) calendar days of a suspension, cancellation, material change in coverage, or non-renewal of coverage, CONSULTANT shall provide a replacement Certificate of Insurance and applicable endorsements to CITY. CITY shall have the option to suspend CONSULTANT'S performance should there be a lapse in coverage at any time during this Agreement. Failure to provide and to maintain the required insurance shall constitute a material breach of this Agreement.

10.10 In addition to any other remedies CITY may have upon CONSULTANT'S failure to provide and maintain any insurance or policy endorsements to the extent and within the time required, CITY may order CONSULTANT to stop work and/or withhold any payment(s) which become due to CONSULTANT under this Agreement until CONSULTANT demonstrates compliance with requirements.

10.11 Nothing contained in this Agreement shall be construed as limiting the extent to which CONSULTANT may be held responsible for payments of damages to persons or property resulting from CONSULTANT'S or its subcontractors' performance of the work covered under this Agreement.

10.12 CONSULTANT'S insurance shall be deemed primary and non-contributory with respect to any insurance or self - insurance carried by City for liability arising out of operations under this Agreement.

10.13 The insurance required is in addition to and separate from any other obligation contained in this Agreement and no claim or action by or on behalf of City shall be limited to insurance coverage provided.

10.14 CONSULTANT and any subcontractor are responsible for all damage to their own equipment and/or property result from their own negligence.

XI. INDEMNIFICATION

11.1 **CONSULTANT covenants and agrees to FULLY INDEMNIFY, DEFEND and HOLD HARMLESS, the CITY and the elected officials, employees, officers, directors, volunteers and representatives of the CITY, individually and collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal or bodily injury, death, property damage and intellectual property right infringement, made upon the CITY directly or indirectly arising out of, resulting from or related to the CONSULTANT'S activities under this AGREEMENT, including any acts or omissions of the CONSULTANT, any agent, officer, director, representative, employee,**

Consultant or subcontractor of the CONSULTANT, and their respective officers, agents employees, directors and representatives while in the exercise of performance of the rights or duties under this AGREEMENT. The indemnity provided for in this paragraph shall not apply to any liability resulting from the negligence of the CITY, its officers or employees, in instances where such negligence causes personal injury, death, or property damage. IN THE EVENT THE CONSULTANT AND THE CITY ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS FOR THE STATE OF TEXAS, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW.

11.2 **The provisions of this INDEMNIFICATION are solely for the benefit of the Parties and not intended to create or grant any rights, contractual or otherwise, to any other person or entity.**

11.3 **CONSULTANT shall advise the CITY in writing within 24 hours of any claim or demand against the CITY or the CONSULTANT known to the CONSULTANT related to or arising out of the CONSULTANT'S activities under this AGREEMENT.**

11.4 Defense Counsel - City shall have the right to select or to approve defense counsel to be retained by the Consultant in fulfilling its obligation hereunder to defend and indemnify the City, unless such right is expressly waived by the City in writing. Consultant shall retain the City approved defense counsel within seven (7) business days of the City's written notice that the City is invoking its right to indemnification under this Agreement. If the Consultant fails to retain Counsel within such time period, the City shall have the right to retain defense counsel on its own behalf, and the Consultant shall be liable for all costs incurred by the City. City shall also have the right, at its option, to be represented by advisory counsel of its own selection and at its own expense, without waiving the foregoing.

11.5 Employee Litigation – In any and all claims against any party indemnified hereunder by any employee of the Consultant, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation provided shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Consultant or any subcontractor under worker's compensation or other employee benefit acts.

XII. ASSIGNMENT AND SUBCONTRACTING

12.1 Consultant shall supply qualified personnel as may be necessary to complete the work to be performed under this Agreement. Persons retained to perform work pursuant to this Agreement shall be the employees or subcontractors of the Consultant. Consultant, its employees or its subcontractors shall perform all necessary work.

12.2 Any work or services approved for subcontracting hereunder shall be subcontracted only by written contract and, unless specific waiver is granted in writing by the City, shall be subject by its terms to each and every provision of this Agreement. Compliance by subcontractors with this Agreement shall be the responsibility of the Consultant. City shall in no event be obligated to any third party, including any subcontractor of the Consultant**,** for performance of services or payment of fees.

12.3 Except as otherwise stated, the Consultant may not sell, assign, pledge, transfer or convey any interest in this Agreement, nor delegate the performance of any duties hereunder, by transfer, by subcontracting or any other means, without the prior written consent of the Director. As a condition of such consent, if such consent is granted, the Consultant shall remain liable for completion of the services outlined in this Agreement in the event of default by the successor Consultant, assignee, transferee or subcontractor.

12.4 Any attempt to transfer, pledge or otherwise assign this Agreement without said written approval, shall be void ab initio and shall confer no rights upon any third person. Should the Consultant assign, transfer, convey, delegate, or otherwise dispose of any part of all or any part of its right, title or interest in this Agreement,

the City may, at its option, cancel this Agreement and all rights, titles and interest of the Consultant shall thereupon cease and terminate, in accordance with Article VII. Termination, notwithstanding any other remedy available to the City under this Agreement. The violation of this provision by the Consultant shall in no event release the Consultant from any obligation under the terms of this Agreement, nor shall it relieve or release the Consultant from the payment of any damages to the City, which the City sustains as a result of such violation.

XIII. INDEPENDENT CONTRACTOR

13.1 Consultant covenants and agrees that he or she is an independent contractor and not an officer, agent, servant or employee of the City; that the Consultant shall have exclusive control of and exclusive right to control the details of the work performed hereunder and all persons performing same, and shall be responsible for the acts and omissions of its officers, agents, employees, contractors, subcontractors and Contractors; that the doctrine of respondeat superior shall not apply as between the City and Consultant, its officers, agents, employees, contractors, subcontractors and Contractors, and nothing shall be construed as creating the relationship of employer-employee, principal-agent, partners or joint venturers between the City and Consultant. The Parties understand and agree that the City shall not be liable for any claims which may be asserted by any third party occurring in connection with the services to be performed by the Consultant under this Agreement and that the Consultant has no authority to bind the City.

XIV. FEDERAL REQUIREMENTS AND PROHIBITIONS

14.1 Consultant understands that under this Agreement, it may receive payment of federal grant funds through this Agreement, and agrees that:

(A) CONSULTANT shall comply with the Office of Management and Budget (OMB) Circular at 2 C.F.R. 200 et al. entitled Uniform Administration Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance), as applicable to the funds received by CONSULTANT.

(B) If federal funds are in excess of $150,000, CONSULTANT shall comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. §§7401-7671q) and the Federal Water Pollution Control Act (33 U.S.C. §§1251-1387), as amended. CONSULTANT agrees to report each violation to the City and understands that the City will, in turn, report each violation as required to the federal Consultant providing funds for this Contract and the appropriate EPA Regional Office. Additionally, CONSULTANT agrees to include these requirements in each subcontract to this Contract exceeding $150,000 financed in whole or in part with federal funds.

(C) CONSULTANT shall comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, including, but not limited to, the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247. CONSULTANT agrees to include within its subcontracts a requirement that its subcontractors comply with this provision.

(D) This Agreement is a covered transaction for purposes of 2 C.F.R. Part 180 and 2 C.F.R. Part 3000. As such, the CONSULTANT is required to verify that none of the CONSULTANT's principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935). CONSULTANT must comply with 2 C.F.R. Part 180, subpart C and 2 C.F.R. Part 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into. This certification is a material representation of fact relied upon by City. If it is later determined that CONSULTANT did not comply with 2 C.F.R. Part 180, subpart C and 2 C.F.R. Part 3000, subpart C, in addition to remedies available to City, the federal government may pursue available remedies, including but not limited to suspension and/or debarment.

(E) CONSULTANT has tendered to the City a Certification of Restrictions on Lobbying in compliance with the Byrd Anti-lobbying Amendment (31 U.S.C. §1352), and any applicable implementing regulations, if

CONSULTANT applied for or bid for an award exceeding $100,000.00 from the City. Each tier certifies to the tier above that it will not and has not used federally appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any Consultant, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to the City who in turn will forward the certification(s) to the federal awarding Consultant.

(F) In the performance of this Contract, CONSULTANT shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired (1) Competitively within a timeframe providing for compliance with the contract performance schedule; (2) meeting contract performance requirements; or (3) at a reasonable price. Information about this requirement, along with the list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines webpage: https://www.epa.gov/smm/comprehensive- procurement-guideline-cpg-program.

(G) Section 889(b) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232, and 2 C.F.R. § 200.216 prohibit the head of an executive Consultant on or after Aug.13, 2020, from obligating or expending grant, cooperative agreement, loan, or loan guarantee funds on certain telecommunications products or from certain entities for national security reasons. Unless an exception found in Section 889(b) applies, the CONSULTANT and its subcontractors may not use grant, cooperative agreement, loan, or loan guarantee funds from the Federal Emergency Management Consultant to:

(i) Procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;

(ii) Enter into, extend, or renew a contract to procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;

(iii) Enter into, extend, or renew contracts with entities that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system; or

(iv) Provide, as part of its performance of this Contract, subcontract, or other contractual instrument, any equipment, system, or service 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.

In the event CONSULTANT identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the CONSULTANT is notified of such by a subcontractor at any tier or by any other source, CONSULTANT shall report the application information per Section 889(b) to the City, unless elsewhere in this Contract are established procedures for reporting the information. Subcontracts. CONSULTANT shall insert the substance of this clause, including this paragraph (e), in all subcontracts and other contractual instruments.

(H) As appropriate, and to the extent consistent with law, CONSULTANT should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States. This includes, but is not limited to iron, aluminum, steel, cement, and other manufactured products.

(I) In addition to the applicable laws referenced above, CONSULTANT must also adhere to compliance requirements that are applicable to the specific funding source(s) from which funds paid to CONSULTANT hereunder originated, attached hereto for convenience as **Exhibit C**.

XV. CONFLICT OF INTEREST

15.1 The Charter of the City of San Antonio and its Ethics Code prohibit a City officer or employee, as

defined in Section 2-52 of the Ethics Code, from having a financial interest in any contract with the City or any City Consultant such as city owned utilities. An officer or employee has a "prohibited financial interest" in a contract with the City or in the sale to the City of land, materials, supplies or service, if any of the following individual(s) or entities is a party to the contract or sale:

(i) a City officer or employee;

(ii) his parent, child or spouse;

(iii) a business entity in which the officer or employee, or his parent, child or spouse owns (i) 10% or more of the voting stock or shares of the business entity, or (ii) 10% or more of the fair market value of the business entity;

(iv) a business entity in which any individual or entity above listed is a (i) subcontractor on a City contract, (ii) a partner, or (iii) a parent or subsidiary business entity.

15.2 Consultant warrants and certifies as follows:

(i) Consultant and its officers, employees and agents are neither officers nor employees of the City.

15.3 Consultant acknowledges that the City's reliance on the above warranties and certifications is reasonable.

XVI. AMENDMENTS

16.1 Except where the terms of this Agreement expressly provide otherwise, any alterations, additions, or deletions to the terms hereof, shall be effected by amendment, in writing, executed by both the City and Consultant and subject to City Council approval, as evidenced by passage of an ordinance, as to City's approval, and under authority granted by formal action under Consultant's governing body, as to Consultant's approval. City Manager, or his/her designee shall have the authority to execute amendments of this Agreement without the necessity of seeking any further approval by the City Council of the City of San Antonio, if permitted by all applicable local, state and federal laws, and in the following circumstances:

(A) modifications to the Scope of Work so long as the terms of the amendment are reasonably within the parameters set forth in the original Scope of Work; ;

(B) budget shifts of funds, so long as the total dollar amount set forth in Section 4.1 of this Agreement remains unchanged; or

(C) reductions to the Agreement amount, and any corresponding reductions to Article III Scope of Services and Article IV Compensation to Consultant.

16.22 It is understood and agreed by the Parties hereto that changes in local, state and federal rules, regulations or laws applicable hereto may occur during the term of this Agreement and that any such changes shall be automatically incorporated into this Agreement without written amendment hereto, and shall become a part hereof as of the effective date of the rule, regulation or law.

XVI. SEVERABILITY

17.1 If any clause or provision of this Agreement is held invalid, illegal or unenforceable under present or future federal, state or local laws, including but not limited to the City Charter, City Code, or ordinances of the City of San Antonio, Texas, then and in that event it is the intention of the Parties that such invalidity, illegality

or unenforceability shall not affect any other clause or provision hereof and that the remainder of this Agreement shall be construed as if such invalid, illegal or unenforceable clause or provision was never contained; it is also the intention of the Parties that in lieu of each clause or provision of this Agreement that is invalid, illegal, or unenforceable, there be added as a part of the Agreement a clause or provision as similar in terms to such invalid, illegal or unenforceable clause or provision as may be possible, legal, valid and enforceable.

XVIII. LICENSES/CERTIFICATIONS

18.1 Consultant warrants and certifies that the Consultant and any other person designated to provide services under this Agreement has the requisite training, license and/or certification to provide said services, and meets all competence standards promulgated by all other authoritative bodies, as applicable to the services provided under this Agreement.

XIX. STATE PROHIBITIONS ON CERTAIN CONTRACTS

19.1 This Article only applies to a contract that:
(1) is between a governmental entity and a company with 10 or more full-time employees; and

(2) has a value of $100,000 or more that is to be paid wholly or partly from public funds of the governmental entity.

19.2 "Company" means a for-profit organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations that exists to make a profit. This term does not include a sole proprietorship.

19.3 Prohibition on Contracts with Companies Boycotting Israel.

Texas Government Code §2271.002 provides that a governmental entity may not enter into a contract with a company for goods or services, unless the contract contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract.

"Boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes.

Consultant hereby verifies that it does not boycott Israel, and will not boycott Israel during the term of the contract. City hereby relies on Company's verification. If found to be false, City may terminate the contract for material breach.

19.4 Prohibition on Contracts with Companies Boycotting Certain Energy Companies

Texas Government Code §2274 provides that a governmental entity may not enter into a contract with a company for goods or services, unless the contract contains a written verification from the company that it: (1) does not boycott energy companies; and (2) will not boycott energy companies during the term of the contract.

"Boycott energy company" means, without an ordinary business purpose, refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations with a company because the company: (A) engages in the exploration, production, utilization, transportation, sale, or manufacturing of fossil fuel-based energy and does not commit or pledge to meet environmental standards beyond applicable federal and state law; or (B) does business with a company described in (A).

Consultant hereby verifies that it does not boycott energy companies and will not boycott energy

companies during the term of the contract. City hereby relies on Company's verification. If found to be false, City may terminate the contract for material breach.

19.5 Prohibition on Contracts with Companies that Discriminate Against Firearm and Ammunition Industries.

Texas Government Code §2274 provides that a governmental entity may not enter into a contract with a company for goods or services, unless the contract contains a written verification from the company that it: (1) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (2) will not discriminate during the term of the contract against a firearm entity or firearm trade association.

"Discriminate against a firearm entity or firearm trade association": (A) means, with respect to the entity or association, to: (i) refuse to engage in the trade of any goods or services with the entity or association based solely on its status as a firearm entity or firearm trade association; (ii) refrain from continuing an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association; or (iii) terminate an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association.

Consultant hereby verifies that it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and will not discriminate during the term of the contract against a firearm entity or firearm trade association. City hereby relies on Company's verification. If found to be false, City may terminate the contract for material breach.

19.6 Contracts with Companies Engaged in Business with Iran, Sudan, or Foreign Terrorist Organization Prohibited.

Texas Government Code §2252.152 provides that a governmental entity may not enter into a governmental contract with a company that is identified on a list prepared and maintained under Texas Government Code §§2270.0201 or 2252.153. Vendor hereby certifies that it is not identified on such a list and that it will notify City should it be placed on such a list while under contract with City. City hereby relies on Vendor's certification. If found to be false, or if Vendor is identified on such list during the course of its contract with City, City may terminate the Contract for material breach.

XX. NONWAIVER OF PERFORMANCE

20.1 Unless otherwise specifically provided for in this Agreement, a waiver by either Party of a breach of any of the terms, conditions, covenants or guarantees of this Agreement shall not be construed or held to be a waiver of any succeeding or preceding breach of the same or any other term, condition, covenant or guarantee contained in this Agreement. Further, any failure of either Party to insist in any one or more cases upon the strict performance of any of the covenants of this Agreement, or to exercise any option contained, shall in no event be construed as a waiver or relinquishment for the future of such covenant or option. In fact, no waiver, change, modification or discharge by either Party of any provision of this Agreement shall be deemed to have been made or shall be effective unless expressed in writing and signed by the Party to be charged. In case of the City, such changes must be approved by the City Council, when required. No act or omission by a Party shall in any manner impair or prejudice any right, power, privilege, or remedy available to that Party under this Agreement or by law or in equity.

XXI. LAW APPLICABLE

21.1 **THIS AGREEMENT SHALL BE CONSTRUED UNDER AND IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS AND ALL OBLIGATIONS OF THE PARTIES CREATED HEREUNDER ARE PERFORMABLE IN BEXAR COUNTY, TEXAS.**

21.2 Any legal action or proceeding brought or maintained, directly or indirectly, as a result of this

Agreement shall be heard and determined in the City of San Antonio, Bexar County, Texas.

21.3 The Parties hereto expressly agree that, in the event of litigation, each party hereby waives its right to payment of attorneys' fees.

XXII. LEGAL AUTHORITY

22.1 The signer of this Agreement for the Consultant represents, warrants, assures and guarantees that he has full legal authority to execute this Agreement on behalf of the Consultant and to bind the Consultant to all of its terms, conditions, provisions and obligations.

XXIII. PARTIES BOUND

23.1 This Agreement shall be binding on and inure to the benefit of the Parties and their respective heirs, executors, administrators, legal representatives, and successors and assigns, except as otherwise expressly provided for.

XXIV. CAPTIONS

24.1 The captions contained in this Agreement are for convenience of reference only, and in no way limit or enlarge the terms and/or conditions of this Agreement.

XXV. INCORPORATION OF EXHIBITS

25.1 Each of the Exhibits listed below is an essential part of the Agreement, which governs the rights and duties of the Parties, and shall be interpreted in the order of priority as appears below:

1. Exhibit A – Scope of Work
2. Exhibit B – Scorecard
3. Exhibit C – USDOL-ETA Apprenticeship Building America (ABA) TERMS AND CONDITIONS

XXVI. ENTIRE AGREEMENT

26.1 This Agreement, together with its exhibits, if any, constitute the final and entire agreement between the Parties and contain all of the terms and conditions agreed upon. No other agreements, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind the Parties, unless same be in writing, dated subsequent to the effective date, and duly executed by the Parties, in accordance with Article XV. Amendments.

----------*Signatures to follow*----------

EXECUTED and **AGREED** to by the Parties to be effective upon the date of signature of the last Party to sign.

CITY OF SAN ANTONIO

Erik Walsh
City Manager

Date

Courageous Creativity

Eliana Mijangos-Brown
CEO & Founder

3/26/24
Date

Approved as to Form:

Christina A. Ramirez
Assistant City Attorney

EXHIBIT A
Scope of Work
ABA Marketing & Outreach Consultant

I. Background

In 2022, San Antonio Workforce Development Office ("WDO") established the $180M+ Ready to Work Initiative ("RTW"), which aims to train 15,000 qualifying San Antonio residents through 2025. WDO engaged with Courageous Creativity, hereafter known as the "Consultant," to provide marketing services including creation of marketing strategies for community outreach and employer engagement.

II. Objective

Consultant shall support the Workforce Development Office (WDO) - Apprenticeship Building America (ABA) program by providing services focused on breaking stigmas and stereotypes surrounding the ABA program that has attracted negative bias or misinformation affecting an employer's willingness to join the program. Marketing efforts will be used to reach targeted populations with specific demographics. Advertisements will communicate the support that the ABA program can provide to overcome barriers or other factors. Leveraging the ABA slogan, "Learn. Earn. Succeed," Consultant shall cross-market the program and ensure its greatest impact. Promotional materials shall include the San Antonio Ready to Work course catalog, which includes ABA apprenticeships and pre-apprenticeships. Guidance shall promote the benefits of programs for employers and employees alike. Consultant shall use grassroots initiatives and encourage the involvement of community-based organizations already involved with these targeted populations.

DELIVERABLES:

1. Develop and implement an initial three-month comprehensive communication plan in accordance with the ABA scope of work (up to 250 hours), to include:
   - Social media strategy
   - Website digital content and recommended branding
   - Outreach-based communication (brand building events)
   - Print and mail mediums
   - Listening tour with key constituents and industry partners to field brand development

2. Develop and deliver final communication plan building off of initial plan (up to 250 hours).

3. Execute marketing and comprehensive communications for ABA to include (up to 2,500 hours):
   - Three (3) social media posts per week (design, scheduling, captions, hashtags)
   - Amplify the voice of the industry partners -- including (but not limited to):
     - Construction/Trades
     - Education
     - Human Resources
     - IT/Cybersecurity
     - Manufacturing
     - Public Sector
   - Design and schedule one (1) monthly newsletter
   - Develop content for participant success stories and testimonials – "Day in the Life"
   - Design promotional material needed for community outreach events
   - Ensure brand cohesion between social media, website, newsletters, and external marketing material
   - Maintain website content and recommend branding options
   - Establish communication outreach with employers
   - Configure print and mail mediums

- Plan listening tours with key constituents and industry partners to field brand development

The WDO-ABA program will not require the Consultant to conduct business on City property. The City shall approve marketing materials prior to publication.

Reporting:

1. A monthly report detailing the progress of deliverables, to include a social media update, shall be due by the last working day of each month. Consultant will provide this report in their own internal format. The following will be entailed in the report as applicable;
    a. The amount of views, spectators or total number reached
    b. Total digital impressions and digital engagement
    c. The amount of recipients that used the promotional material for the participant interest form or other ABA program events
    d. The amount of new employer programs that were developed from outreach efforts
    e. The amount of frequently asked questions, inquiries, comments or recommendations
    f. If applicable, a success story from an active participant (coordinated by WDO)

2. A weekly email report of accomplishments submitted no later than the last business day of the week. If desired by the Consultant, a more formal format will be accepted. The following types of information will be included in the report;
    a. Deliverables accomplished for the week

3. A virtual weekly meeting for the first month, a biweekly meeting for the second month and as required meetings for the third month to complete the initial three-month comprehensive plan. The meetings will foster synchronization on information, priorities, tasks, and questions.

EXHIBIT B – SCORECARD

April 2024 – March 2027

Deliverables with Deadlines	Deliver by Date	Completed Date
Build an initial three-month communication plan	Due no later than July 1, 2024	
Build final communication plan (building off of initial)	Due no later than August 30, 2024	
Deliver Weekly Social Media Posts (3)	Weekly	Continuous
Design and Schedule Monthly Newsletter	Monthly	Continuous
Plan listening tours with key constituents and industry partners	Begin no later than April 8, 2024	

U.S. DEPARTMENT OF LABOR **EMPLOYMENT AND TRAINING** **ADMINISTRATION (DOL/ETA)**	***NOTICE OF*** ***AWARD (NOA)***

Under the authority of the ***American Competitiveness and Workforce Improvement Act***, this grant or agreement is entered into between the above named ***Grantor Agency*** and the following named ***Awardee***, for a project entitled - ***Apprenticeship Building America (ABA) Grant Program .***

Name & Address of Awardee:
CITY OF SAN ANTONIO
100 W HOUSTON STREET
SUITE 1900
SAN ANTONIO, TEXAS 78205-1433

Federal Award Id. No. (FAIN): AP-38629-22-60-A-48
CFDA #: 17.285- Apprenticeship USA Grants
Amount:$2,983,433.00
EIN: 746002070
DUNS #:

Accounting Code: 1630-2022-0501742122BD202201740024215AP001A0000AATELSAATELS-A90600-410023-ETA-DEFAULT TASK-

Payment Management System DOC#: AP38629JX1

The Period of Performance shall be from **July 01, 2022 thru June 30, 2026**.
Total Government's Financial Obligation is **$2,983,433.00** (unless other wise amended).

Payments will be made under the Payments Management System, and can be automatically drawn down by the awardee on an as needed basis covering a forty-eight (48) hour period.

CONDITIONALLY APPROVED FUNDING This grant award is funded in the amount specified above; however, is conditionally approved with an initial increment of $80,000. This constitutes a Partial Notice to Proceed. Release of additional funds up to the amount approved for your project will be based on your ability to address the condition(s) of the award. The grantee is not authorized to incur costs above $80,000. Response to Conditions 1 and 2 outlined on the following pages must be submitted to the Federal Project Officer (FPO) assigned to your grant. Please note that submission of the requested information does not in itself constitute approval by the U.S. Department of Labor, Employment and Training Administration. Final approval must be given by the Grant Officer. When the provided documentation resolved the condition(s) of the award, a Full Notice to Proceed will be incorporated into your grant agreement as an official modification and additional funds will be released. Questions pertaining to your submission responding to these conditions should be directed to your FPO.
In performing its responsibilities under this grant agreement, the awardee hereby certifies and assures that it will fully comply with all applicable Statute(s), and the following regulations and cost principles, including any subsequent amendments:

Uniform Administrative Requirements, Cost Principles, and Audit Requirements:
2 CFR Part 200; Uniform Administrative Requirements, Cost Principles, and Audit Requirements; Final Rule
2 CFR Part 2900; DOL Exceptions to 2 CFR Part 200;

Other Requirements (Included within this NOA):

Condition(s) of Award (if applicable)
Federal Award Terms, including attachments

Contact Information
The Federal Project Officer (FPO) assigned to this grant is Edgar Garcia. Edgar Garcia will serve as your first line point of contact and can be contacted via e-mail - *garcia.edgar@dol.gov*. If your FPO is not available, please call your Regional Office at 972-850-4600 for assistance.

The awardee's signature below certifies full compliance with all terms and conditions as well as all applicable Statues(s), grant regulations, guidance, and certifications.

Signature of Approving Official - ***AWARDEE***

90-day temporary ICR

See SF-424 for Signature

No Additional Signature Required

Signature of Approving Official - ***DOL / ETA***

BRINDA RUGGLES, June 27, 2022
GRANT Officer

Apprenticeship Building America (ABA)
CITY OF SAN ANTONIO
Conditions of Award
AP-38629-22-60-A-48

As part of the Condition(s) of Award to receiving the Apprenticeship Building America (ABA) Grant, the U.S. Department of Labor (DOL), Employment and Training Administration (ETA) has identified the following area(s) that require further clarification and/or modification.

Please note that a submittal of the required document(s) does not constitute approval by DOL/ETA. A grant modification will need to be submitted and final approval must be given by the Grant Officer (GO). Your Federal Project Officer (FPO) will review the documentation and then submit it to the GO for formal approval as a modification to the grant agreement. Once approved, the revised document(s) will comprise the official modification to this grant agreement and the special conditions will be resolved. Any questions related to the below items must be submitted to your FPO.

A response to this request for clarification and modification must be submitted to your FPO within **90 days** of receipt of this grant award package.

Condition 1 – Financial and Administrative Policies and Procedures (Partial Notice to Proceed)

Submit a copy of your organization's financial and administrative policies and procedures for the following internal control activities, which require written procedures. The included citations provide the specific criteria that must be addressed for each internal control:

Payments (2 CFR 200.302(b)(6) and 2 CFR 200.305),
Allowable costs (2 CFR 200.302(b)(7) and 2 CFR 200.403),
Procurement (2 CFR 200.318),
Competition (2 CFR 200.319),
Method for evaluation and selection (2 CFR 200.320),
Compensation - personal services and fringe benefits (2 CFR 200.430 and 2 CFR 200.431),
Employee relocation costs (2 CFR 200.464), and
Travel costs (2 CFR 200.475).

DOL/ETA will review the information and for this purpose may request additional information, conduct a desk review and/or on-site visit with grantee staff and/or the Board of Directors.

The FPO will review the submitted policies and procedures to ensure that all of the required internal control policies and procedures listed above have been submitted. If each of the required policies and procedures has been received, the FPO will submit a confirmation statement (an email or letter, attached in the Requisition/Procurement Action Request) that DOL/ETA is in receipt of the required policies and procedures.

The removal of this condition does not imply approval of the submitted financial and administrative policies and procedures.

Condition 2 – Financial System Risk Assessment (Partial Notice to Proceed)
In accordance with the FOA, all applicants were requested to submit a completed Financial System Risk Assessment (FSRA) form. Your application package included an incomplete FSRA form. See Section V.B(2) of the FOA for a sample template and additional instructions. Please provide:

- A completed FSRA form along with a detailed response (on a separate page on your organization's letterhead and signed/dated by the Authorized Representative) for any items 2-9 of Section C that have "No" or "Not Sure" answer(s), providing enough information to clearly reflect the expertise of the organization in these areas.

The FPO will review the FSRA form for completeness. If complete, the FPO will include the FSRA in the Requisition/Procurement Action Request as an official modification.

Condition 3 – Budget
The grantee must submit a budget modification request which includes a completed SF-424A and Budget Narrative which aligns with the total on the SF-424. The Budget Narrative must address and break down the entirety of each line reflected on the SF-424A. The Budget Narrative must also contain costs per entry in each category which add up to the indicated line item total with enough information to ascertain whether the represented totals are mathematically accurate. Specifically, the Budget Narrative must clarify the following:

- *Budget Narrative total requested funds need to align with total requested funds listed on the SF-424A. Include Indirect Costs in the total.*
- *Relocate "Apprenticeship Support Stipends" to "Other" Category*

Please submit a revised Budget Narrative and matching SF-424A (if applicable) to your Federal Project Officer (FPO) within 30 days from the date of award.

Condition 4 – Budget Clarification (Indirect Cost – 10% De Minimis)
The grantee has incorporated indirect costs into the budget, but has not submitted a Negotiated Indirect Cost Rate Agreement (NICRA). It is not clear whether the grantee is claiming indirect costs under a NICRA or the de minimis indirect cost rate. The 10% de minimis indirect cost rate is available to organizations that do not have nor have ever had a federally negotiated indirect cost rate agreement in place. To claim the de minimis rate,

the grantee must submit a statement confirming the organization has never had a federally negotiated indirect cost rate agreement in place.

The grantee must submit the required documentation to resolve this clarification. Please work with your Federal Project Officer (FPO) to submit this request. Your FPO will review the documentation and then submit it to the Grant Officer for formal approval as a modification to the grant agreement.

Response to Programmatic Compliance Review

After receipt of this award DOL/ETA staff will be performing a general compliance review to help ensure the programmatic aspects of the grant projects are in compliance with the Funding Opportunity Announcement (FOA) and other Federal requirements. After the review, if there is any action needed, ETA will transmit the results of the review and instructions for response to the Grantee in a separate document after receipt of this grant award. The Grantee must respond to the actions cited in the review document.

PROGRAM COMPLIANCE NOTIFICATION LETTER

APPRENTICESHIP BUILDING AMERICA

(FOA-ETA-22-06)

Dear Apprenticeship Building America (ABA) Grantee:

Congratulations on your award! You are receiving this Program Compliance Notification Letter, which outlines the programmatic compliance requirements for your **Apprenticeship Building America Grant (FOA-ETA-22-06)** also referred to as **"ABA".** This notification letter does not include individual programmatic findings from your grant. This letter identifies performance measure outcomes compliance items to be addressed (if applicable), serves as notification of programmatic compliance requirements, and directs grantees on how to ensure adherence to these requirements. As outlined in the grant agreement, the signature of the Authorized Representative on the SF-424 confirms your organization's acceptance and acknowledgment of programmatic compliance requirements.

This Program Compliance Notification Letter provides information on the following:

- Key required activities grantees must ensure are incorporated into their grant;
- Key activities or costs that are not allowable;
- Performance measure outcome compliance items to be addressed, if applicable;
- Links to existing grantee guidance (such as FAQs, Funding Opportunity Announcement, and administrative/financial trainings); and
- Grantee guidance on performance expectations and reporting mechanisms.

Key Compliance Items of Note

The below list includes key items to note for programmatic compliance. This list is not exhaustive and grantees should refer to the table included below for references to a complete list of programmatic compliance requirements.

- **ABA** is a new award without specific ties to previous awards, other than the overarching goal of expanding apprenticeship inherent within all apprenticeship grants. This grant may have similar activities, but these must be distinct, both financially and programmatically, from

other grants. Guidance may be similar to other grants, but should not be construed as automatically applicable to your grant. All grant program and financial personnel should read the entire grant agreement upon award.

- **Grants funds can only be used to support Registered Apprenticeship Programs (RAPs) and quality pre-apprenticeship programs that lead to RAPs.** Funding for this opportunity comes from the Consolidated Appropriations, 2021, Public Law 116-260, Division H, Title I. This appropriation allows the Department to award funds to "expand opportunities through RAPs only registered under the National Apprenticeship Act." This means recipients must spend these funds on activities that will create or assist in the creation of RAPs. This program will support the development of new, or the expansion of existing, RAPs, as described in 29 CFR Parts 29 and 30. Under the ABA grantees may not spend funds on Industry-Recognized Apprenticeship Programs (IRAPs).

  Further, pre-apprenticeship programs funded through this grant must directly lead to RAPs during the grant period of performance. Pre-apprenticeship programs funded under this grant should ensure that the skills and competencies being developed align with industry needs. It is allowable and encouraged for pre-apprentice completers to receive grant-funded services in a RAP so they may be a grant participant.

- **Individuals served must be at least 16 years of age who are not already enrolled in a RAP at the time of initial grant service.**

- **Registered Apprenticeship Programs and Quality Framework for Pre-Apprenticeship Programs.** RAPs and pre-apprenticeships leading to RAP enrollment that are funded and developed under this grant program must align with the requirements outlined below. Requirements are provided under "Program Design/Allowable Activities" on pages 6-10 of the FOA.

- **For Categories 1-3, any local or statewide grant recipient that is not a State Apprenticeship Agency (SAA), operating within a federally-recognized SAA, must partner with that SAA.**

- **Funding Requirements**: Grantees that receive ABA grant funds must ensure their grants include activities that address ABA program goals for the particular category they are funded. In addition, all grantees will propose projects that include the following activities:

    - Launch and/or expand RAPS, increase RAP opportunities for youth, and/or pre-apprenticeship programs that lead to RAP enrollment;
    - Engage industries and support ongoing relationships;
    - Promote and conduct outreach activities;
    - Actively identify and collaborate with a broad range of partners;
    - Engage underrepresented populations and underserved communities;
    - Leverage resources;
    - Utilize data-informed decision making;
    - Align and connect policies and initiatives across workforce development, economic development, education and other systems to improve grant outcomes and create longer-term conditions for success; and

- Incorporate the cross-cutting principles of Equity, Job Quality, Support for High Quality, Sustainable Programs, Evidence-Based Approaches, and New Opportunities for Innovation, Engagement, and Ease of Access.

Please refer to Section I.A. of the FOA for a detailed list of allowable activities.

- **Equity Partnerships and/or Pre-apprenticeship Activities Optional Funding Requirements**: Grantees awarded funding under the Equity Partnerships and/or Pre-apprenticeship activities that result in RAPs set-aside must ensure their grants satisfy the criteria as identified in Section II.A of the FOA.

- **Use of Grant Funds for Supportive Services:** Grantees may use up to 20 percent of total grant funds to provide supportive services to individuals who are participating in education and training activities provided through the grant. Under this grant program, supportive services for training participants include, but are not limited to, services such as transportation, childcare, dependent care, counseling, housing, and other needs-related payments that are necessary to enable an individual to participate in education and training activities funded through this grant. Grantees may provide supportive services in various ways, including providing the supportive service itself (e.g., childcare); providing participants with a voucher for the service (e.g., public transportation cards or tokens); or providing a stipend directly to the participant.

  Where stipends for supportive services are provided, the stipend amount must be for costs of a specific supportive service (e.g., childcare), rather than simply based on an unidentified need. For the purposes of this FOA, grantees may use grant funds up to the percentage specified above, to provide supportive services only to individuals who are participating in education and training activities provided through the grant, and only when: (1) they are unable to obtain such services through other programs; and (2) such services are necessary to enable individuals to participate in education and training activities under the grant.

- **Performance Reporting Requirements**: Grantees are required to adhere to OMB-approved performance reporting requirements. This includes submitting a Quarterly Progress Report containing updates on the implementation and progress specified in the grant's Statement of Work and the status of grant program outcomes for all participants that receive grant-funded services. Performance reporting for these grants aligns with the DOL-Only Performance Accountability Information and Reporting System (OMB Control No. 1205-0521) information collection request, specifically the requirements identified for apprenticeship grants data reporting into the Workforce Integrated Performance System (WIPS). As part of quarterly performance reporting, DOL requires grant recipients to conduct data validation to ensure the validity of data submitted to DOL (see TEGL-23-19 https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=9155).

  In order to submit these quarterly reports, the grantee will be expected to track and report on certain participant-level data to ETA, including Social Security Numbers (SSNs), on all individuals who are provided grant-funded services. The SSN information allows ETA to efficiently match employment data from state unemployment insurance and other wage records. Thus, the collection of participant SSNs lessens the burden on grantees in tracking exit-based employment measures (WIOA Primary Indicators of Performance), while permitting consistent and reliable outcome information to be produced regarding the program.

  Each grantee is accountable for reaching their proposed performance targets for the performance

outcome measures specified in the FOA. Failure to meet those outcomes may result in technical assistance or other intervention by ETA, and may also have a significant impact on decisions about future grants with ETA.

- **Case Management System:** In addition to appropriate financial management tracking systems to provide accurate financial tracking and reporting, grantees are expected to have their own case management or management information system to utilize for grant participant enrollment, on-boarding and tracking during the period of performance, which allows for a .csv file export and upload into the Department's Workforce Integrated Performance Reporting System (WIPS) data files. Before the first reporting due date, grantees must have a WIPS account ready. The WIPS Technical Assistance page, https://www.doleta.gov/performance/wips/WIPS_Technical_Assistance_Request.cfm, will allow you to submit a request to create an account for new WIPS users and to add Apprenticeship to current WIPS accounts. The Program Office will also review this information in the first performance webinar.

- **National Evaluation Participation:** As a condition of grant award, grantees are required to participate in a national evaluation, if undertaken by DOL. The evaluation may include an implementation assessment across grantees, an impact and/or outcomes analysis of all or selected sites within or across grantees, and a benefit/cost analysis or assessment of return on investment. Conducting an impact analysis could involve random assignment (which involves random assignment of eligible participants into a treatment group that would receive program services or enhanced program services, or into control group(s) that would receive no program services or program services that are not enhanced). See Section VI.B.4.a. of the FOA for more information.

REFERENCES

Consolidated Compliance References	Resource Link	Overview/ Description
FOA-ETA-22-06	https://www.dol.gov/sites/dolgov/files/ETA/grants/pdfs/ABA_FOA-ETA-22-06.pdf https://www.dol.gov/sites/dolgov/files/ETA/grants/pdfs/ABA_FOA-ETA-22-06_Amendment%20One.pdf	The Funding Opportunity Announcement for the ABA grant and Amendment One to the ABA FOA
Registered Apprenticeship and Pre-Apprenticeship Definitions	https://www.ecfr.gov/current/title-29/subtitle-A/part-29 https://wdr.doleta.gov/directives/attach/TEN/TEN_13-12.pdf	29 C.F.R. § 29 outlines the elements of a registered apprenticeship program. TEN 13-12 details the elements of a quality pre-apprenticeship program.
Frequently Asked Questions for FOA ETA 22-06	https://www.dol.gov/sites/dolgov/files/ETA/grants/pdfs/Apprenticeship%20Building%20America%20FAQ's_Updated.pdf	The Department has posted updated ABA FOA FAQs online.
Grantee Handbook	https://www.doleta.gov/grants/award_management.cfm	The Grantee Handbook provides guidance on the management of grants throughout the life cycle. Transmitted with the grant agreement to every grantee Authorized Representative and Point of Contact identified on the SF-424.

2 CFR 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards	https://www.gpo.gov/fdsys/granule/CFR-2014-title2-vol1/CFR-2014-title2-vol1- part200/content-detail.html	Also known as the Uniform Guidance (UG), this is the consolidation of grant management requirements formerly contained in several OMB circulars. The Uniform Guidance encapsulates Federal grant management requirements governing administrative requirements, cost principles, and audit requirements. All grantee personnel should be familiar with the Uniform Guidance
2 CFR 2900 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards:	https://www.gpo.gov/fdsys/granule/CFR-2016-title2-vol1/CFR-2016-title2-vol1-part2900 Additional information on the Uniform Guidance can be found at: https://www.doleta.gov/grants/UniformGuidance.cfm.	The Department of Labor's adoption of the Uniform Guidance includes a limited number of exceptions approved by OMB to ensure consistency with existing policy and procedures. Where present, the DOL exceptions take precedence over the general UG. Note, that if the prime grantee elects to utilize sub-awards all UG requirements applicable to the prime gran apply in addition to any others applicable to the sub-award.
Performance Reporting	https://apprenticeship.workforcegps.org/resources/2021/01/15/22/17/Apprenticeship-Performance-and-Reporting-Resources	Apprenticeship Performance and Reporting Resources

Performance Reporting (continued)	https://www.dol.gov/agencies/eta/performance/wips	Workforce Integrated Performance System (WIPS)
Financial Reporting	TEGL 2-16 https://grantsapplicationandmanagement.workforcegps.org/-/media/Communities/grantsapplicationandmanagement/Files/PPT-and-Attachments/TEGL_2-16_acc.ashx	Revised ETA-9130 Financial Report, Instructions, and Additional Guidance. These grants will utilize the BASIC 9130 form.
	https://doleta.gov/grants/award_management.cfm	OGM Financial Links. Provides access to the financial reporting system, and payment management system (PMS) for learning opportunities.

Please work with your Federal Project Officer (FPO) to resolve any compliance items or questions related to this Program Compliance Notification Letter.

TERMS AND CONDITIONS
TABLE OF CONTENTS

1. Order of Precedence

In the event of any inconsistency between the terms and conditions of this Notice of Award (NOA) and other requirements, the following order of precedence shall apply:

I. National Apprenticeship Act.
II. Other applicable Federal statutes.
III. Consolidated Appropriations Act 2021 (Public Law 116-260) dated December 27, 2020.
IV. Implementing Regulations.
V. Executive Orders and Presidential Memoranda.
VI. The Office of Management and Budget (OMB) Guidance, including the Uniform Guidance at 2 CFR 200 and 2900.
VII. The U.S. Department of Labor (DOL)/Employment and Training Administation (ETA) Directives.
VIII. Terms and conditions of this award.

2. Notice of Award

The funds shall be obligated and allocated via a NOA grant modification. These obligations and expenditures may not exceed the amount awarded by the NOA modification unless otherwise modified by the ETA.

3. Funding Opportunity Announcement

The Funding Opportunity Announcement (FOA) at https://www.dol.gov/sites/dolgov/files/ETA/grants/pdfs/ABA_FOA-ETA-22-06.pdf and Amendment One at https://www.dol.gov/sites/dolgov/files/ETA/grants/pdfs/ABA_FOA-ETA-22-06_Amendment%20One.pdf are hereby incorporated into this NOA. Award recipients are bound by the authorizations, restrictions, and requirements contained in the FOA. Therefore, the expenditure of grant funds by the award recipient certifies that your organization has read and will comply with all the parts that are contained in the NOA.

4. Federal Project Officer

The DOL/ETA Federal Project Officer (FPO) for this award is:

Name: Edgar Garcia
Telephone: 972-850-4650
E-mail: Garcia.Edgar@dol.gov

The FPO is not authorized to change any of the terms or conditions of the award, or approve prior approval requests. Any changes to the terms or conditions or prior approvals must be approved by the Grant Officer through the use of a formally executed award modification process.

5. Indirect Cost Rate and Cost Allocation Plan

Indirect (facilities & administrative (F&A)) costs means those costs incurred for a common or joint purpose benefitting more than one cost objective, and not readily assignable to the cost objectives specifically benefitted, without effort disproportionate to the results achieved. Direct costs, by contrast, can be identified specifically with a particular final cost objective, such as a Federal award, or other internally or externally funded activity, or that can be directly assigned to such activities relatively easily with a high degree of accuracy. Identification with the Federal award rather than the nature of the goods and services involved is the determining factor in distinguishing direct from indirect (F&A) costs of Federal awards.

If the DOL serves as the Federal Cognizant Agency (FCA) for the grant award recipient, then the grant recipient must work with DOL's Cost & Price Determination Division (CPDD), which has delegated authority to negotiate and issue a Negotiated Indirect Cost Rate Agreement (NICRA) or Cost Allocation Plan (CAP) on behalf of the Federal Government. More information about the DOL's CPDD is available at https://www.dol.gov/agencies/oasam/centers-offices/office-of-the-senior-procurement-executive/cost-price-determination-division. This website has guidelines to develop indirect cost rates, links to the applicable cost principles, and contact information. The CPDD also has Frequently Asked Questions to provide general information about the indirect cost rate approval process and due dates for provisional and final indirect cost rate proposals at https://www.dol.gov/agencies/oasam/centers-offices/office-of-the-senior-procurement-executive/cost-price-determination-division/faq.

If a new NICRA is issued during the grant's period of performance, it must be provided to DOL within 30 days of issuance. Funds may be re-budgeted as necessary between direct cost categories as long as it is consistent with the Budget Flexibility term within this agreement, grant requirements, and DOL regulations on prior approval. However, the total amount of the grant award will not be increased.

☐ A. A federally approved NICRA or federally approved CAP covering a portion of the grant period of performance is attached.
Regarding only the NICRA:
(1) Indirect Rate approved: %
(2) Type of Indirect Cost Rate: _ (i.e. Provisional/Predetermined/ Fixed)
(3) Allocation Distribution Base: _____
(4) Current beginning and ending period applicable to rate: _____

Estimated Indirect Costs are shown on the SF-424A budget form.

☒ B. (1)_____The provided NICRA or CAP approved by the FCA does not cover a portion of the period of performance, or

(2)___x___Indirect costs are being claimed on the SF-424A, however an indirect cost rate proposal or CAP has not yet been submitted for approval to the FCA.

URGENT NOTICE: Estimated indirect costs have been specified on the SF-424A, Section B, Object Class Category "j", however only *the de minimis rate of 10% of Modified Total Direct Costs (MTDC)]* will be released to support the indirect costs in the absence of a NICRA or CAP approved by the FCA. The remaining funds which have been awarded for Indirect Costs are restricted and may not be used for any purpose until the recipient provides a signed copy of the NICRA or CAP and receive documentation stating that the restriction is lifted by the Grant Officer. Upon receipt of the NICRA or CAP, the Grant Officer will issue a grant modification to the award to remove the restriction on those funds.

As the grant award recipient, the grant recipient must submit an indirect cost rate proposal or CAP. If the FCA for indirect costs is DOL, these documents should be submitted to the DOL's Cost & Price Determination Division (CPDD) (see https://www.dol.gov/agencies/oasam/centers-offices/office-of-the-senior-procurement-executive/cost-price-determination-division). Otherwise, they should be submitted to the grant award recipient's FCA. Alternatively, the grant recipient may request the de minimis rate if eligible (see section D. below). In addition, the recipient must notify the FPO that the documents have been submitted to the appropriate FCA.

If the grant recipient does not submit a NICRA proposal within 90 days of award, they will be limited to the de minimis rate of 10% of Modified Total Direct Costs (MTDC). See section D. below for more details and definitions.

☐ C. The grant award recipient elected to exclude indirect costs from the proposed budget. Please be aware that incurred indirect costs (such as top management salaries, financial oversight, human resources, payroll, personnel, auditing costs, accounting and legal, etc. used for the general oversight and administration of the organization) must not be classified as direct costs; these types of costs are indirect costs. Only direct costs, as defined by the applicable cost principles, will be charged. According to 2 CFR 200.412, if indirect costs are misclassified as direct costs, such costs may become disallowed through an audit.

☐ D. The grant award recipient does not have a current negotiated (including provisional) rate and may elect to charge a de minimis rate of 10% of modified total direct costs (MTDC) which may be used indefinitely. A governmental department or agency unit that receives more than $35 million in direct Federal funding must submit its indirect cost rate proposal to its cognizant agency for indirect costs and cannot request a de minimis rate. This methodology must be used consistently for all Federal grant awards until such time as the grant award recipient chooses to negotiate for an indirect cost rate, which the grant recipient may apply to do at any time. See 2 CFR 200.414(f) for more information on use of the de minimis rate. Please be aware that incurred indirect type costs (such as top management salaries, financial oversight, human resources, payroll, personnel, auditing costs, accounting and legal, etc. used for the general oversight

and administration of the organization) must not be classified as direct costs; these types of costs are recovered as part of charging the de minimis rate.

6. Approved Statement of Work

This project's narrative is the approved SOW. It has been included as Attachment D. If there is any inconsistency between the project narrative and the program statute, appropriation, regulations, Executive Orders, Uniform Guidance, and DOL/ETA directives, the order of precedence (as described in Section 1. above) will prevail.

7. Approved Budget

The grant award recipient's budget documents are attached in this NOA. The documents are: 1) the SF-424, included as Attachment A; 2) the SF-424 A, included as Attachment B; and 3) the Budget Narrative, included as Attachment C. The grant award recipient must confirm that all costs are allowable, reasonable, necessary, and allocable before charging any expense. Pursuant to 2 CFR 2900.1, the approval of the budget as awarded does not constitute prior approval of those items specified in 2 CFR part 200 or as a part of the grant award as requiring prior approval. The Grant Officer is the only official with the authority to provide such approval.

Any changes to the budget that impact the Statement of Work (SOW) and agreed upon outcomes or deliverables will require a request for modification and prior approval from the Grant Officer.

If the period of performance will include multiple budget periods, subsequent budget periods are subject to the availability of funds, program authority, satisfactory performance, and compliance terms and conditions of the Federal award.

8. Return of Funds

DOL/ETA does not accept paper checks for any type of returned funds. For active grants, all returns of funds are to be submitted electronically through the PMS operated by the U.S. Department of Health and Human Services (HHS) via the same method as a drawdown. For grants that have been cancelled or are expired (typically older than five years), incoming payments, including returns and recoveries to DOL, must be made via the Pay.gov website (https://www.pay.gov/public/form/start/177233981).

If there are questions regarding the return of funds or your organization no longer has access to PMS, contact the DOL, ETA, Office of Financial Administration via email at: ETA-ARteam@dol.gov for further assistance.

9. Evaluation, Data, and Implementation

As the grant award recipient, the grant recipient must cooperate during the implementation of a third-party evaluation. This means providing DOL or its authorized contractor with the appropriate data and access to program operating personnel and

participants in a timely manner.

a. Single Audit Submission Deadline Extension Related to COVID-19

In OMB Memorandum M-20-17, OMB offered an extension of Single Audit submission deadlines for fiscal years ending June 30, 2020 to allow recipients and subrecipients a responsible transition to normal operations. This flexibility was extended through December 31, 2020 by OMB Memorandum 20-26.

In OMB Memorandum M-21-20, Appendix 3, Item IX, OMB has offered an additional extension of Single Audit submission deadlines for fiscal years ending June 30, 2021. Award recipients and subrecipients that have not yet filed their single audits with the Federal Audit Clearinghouse as of March 19, 2021 that have fiscal year-ends through June 30, 2021 may delay the completion and submission of the Single Audit reporting package, as required under 2 CFR 200.501 (Audit Requirements), to six (6) months beyond the normal due date. This extension does not require individual recipients and subrecipients to seek approval for the extension by the cognizant or oversight agency for audit; however, recipients and subrecipients should maintain documentation of the reason for the delayed filing.

b. Budget Flexibility

Grant recipients are not permitted to make transfers that would cause any funds to be used for purposes other than those consistent with this Federal program. Any budget changes that impact the SOW and agreed upon outcomes or deliverables require a request for modification and approval from the Grant Officer.

As directed in 2 CFR 200.308(e), for programs where the Federal share is over the Simplified Acquisition Threshold (SAT) (currently $250,000), the transfer of funds among direct cost categories or programs, functions, and activities is restricted such that if the cumulative amount of such transfers exceeds or is expected to exceed 10% of the total budget as last approved by the Federal awarding agency, the recipient must receive prior approval from the Grant Officer. Any changes within a specific cost category on the SF424(a) do not require a grant modification unless the change results in a cumulative transfer among direct cost categories exceeding 10% of total budget. It is recommended that the assigned FPO review any within-line changes to the grant award recipient's budget prior to implementation to ensure they do not require a modification.

For programs where the Federal share of the project is below the SAT of $250,000, recipients are not required to obtain the Grant Officer's approval when transferring funds among direct cost categories.

c. Consultants

For the purposes of this grant award, the ETA's Grant Officer has determined that fees paid to a consultant who provides services under a program shall be limited to $750.00 a day (representing an eight-hour workday). 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 Grant Officer.

d. Travel

This award waives the prior approval requirement for domestic travel as contained in 2 CFR 200.475. For domestic travel to be an allowable cost, it must be necessary, allowable, reasonable, allocable and conform to the non-Federal entity's written policies and procedures. All travel must also comply with Fly America Act (49 USC 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.

Foreign travel is not allowable except with prior written approval from the Grant Officer through the process described in 2 CFR 200.407 and 2 CFR 2900.16. All travel, both domestic and Grant Officer approved foreign travel, must comply with the Fly America Act (49 USC 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.

e. Travel – Mileage Reimbursement Rates

Pursuant to 2 CFR 200.475(a), all award recipients must have policies and procedures in place related to travel costs; however, for reimbursement on a mileage basis, this Federal grant award cannot be charged more than the maximum allowable mileage reimbursement rates for Federal employees. Mileage rates must be checked annually at www.gsa.gov/mileage to ensure compliance.

10. Administrative Requirements

a. Audits

Organization-wide or program-specific audits must be performed in accordance with Subpart F, the Audit Requirements of the Uniform Guidance. DOL awards recipients 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 CFR 200.501. OMB's approved exception at 2 CFR 2900.2 expands the definition of 'non-Federal entity' to include for-profit entities and foreign entities. As such, for-profit and foreign entities that are recipients/subrecipients of a DOL award must adhere to the Uniform Guidance at 2 CFR 200, including Subpart F. Audits of direct award recipients that are for-profit and foreign entities must be submitted directly to: USDOL ETA-OGM, Attn: Audit Resolution, 200 Constitution Ave NW, Room N4716, Washington, DC 20210. All other audit reports are submitted through the Federal Audit Clearinghouse.

b. Revisions to the Uniform Guidance

The Office of Management and Budget issued revisions to 2 CFR parts 25, 170, 183, and 200 (the Uniform Guidance) on August 13, 2020 and February 22, 2021 (technical correction). These revisions became effective November 12, 2020, except for the amendments to §§ 200.216 and 200.340, which were immediately effective on August

13, 2020. The grant award recipient must operate in compliance with these revised regulations. Please note that the section numbering in the Uniform Guidance has changed in some instances, and this Terms & Conditions document has been updated accordingly.

c. Closeout/Final Year Requirements

At the end of the grant period, the award recipient will be required to close the grant with the ETA. The grant recipient will be notified approximately 15 days prior to the end of the period of performance that the closeout process will begin when the period of performance ends. See https://www.dol.gov/agencies/eta/grants/management/closeout for further information on the closeout process. The recipient's responsibilities at closeout may be found at 2 CFR 200.344. During the closeout process, the grant recipient 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 required documentation is a NICRA or CAP issued by the grant recipient's FCA. For those approved to utilize a de minimis rate for indirect costs, the grant agreement is sufficient documentation. Not having documentation for direct or indirect costs will result in costs being disallowed and subject to debt collection.

The only liquidation that can occur during closeout is the liquidation of accrued expenditures (NOT obligations) for goods and/or services received during the grant period (2 CFR 2900.15).

d. Equipment

The grant award recipient(s) must receive **prior approval** from the Grant Officer to purchase any equipment as defined in the Uniform Guidance at 2 CFR 200.1. Prior approval is required only when the acquisition cost is $5,000 or more regardless of the non-Federal entity's capitalization threshold. Equipment purchases must be made in accordance with 2 CFR 200.313 or 2 CFR 200.439.

Being awarded this grant ***does not*** automatically mean that the equipment specified in the approved budget or SOW is approved by the Grant Officer. If not specified above, the recipient must submit a detailed list describing the purchase to the FPO for review within 90 days of the NOA date. The recipients are strongly encouraged to submit requests for equipment purchase as early as possible in the grant's period of performance with as many planned pieces of equipment as possible.

Recipients may not purchase equipment during the last year of the period of performance or the last year of full program service delivery (not follow up activities), whichever comes first. If any approved acquisition has not occurred prior to the last funded year of performance, approval for that item is rescinded.

e. Federal Funding Accountability and Transparency Act (FFATA)

1. Reporting of first-tier subawards.

I. *Applicability*. Unless the grant award recipient is exempt as provided in paragraph [4.] of this award term, the grant recipient must report each action that equals or exceeds $30,000 in Federal funds for a subaward to an non-Federal entity or Federal agency (see definitions in paragraph [5.] of this award term).

II. *Where and when to report.*

I. The Federal entity or Federal agency must report each obligating action described in paragraph [1.i.] of this award term to https://www.fsrs.gov.

II. For subaward information, the recipient must report no later than the end of the month following the month in which the obligation was made. (For example, if the obligation was made on November 7, 2010, the obligation must be reported by no later than December 31, 2010.)

III. *What to report.* The grant award recipient must report the information about each obligating action that the submission instructions posted at https://www.fsrs.gov specify.

2. Reporting total compensation of recipient executives for non-Federal entities.

I. *Applicability and what to report*. The grant award recipient must report total compensation for each of their five most highly compensated executives for the preceding completed fiscal year, if—

I. the total Federal funding authorized to date under this Federal award is equals or exceeds $30,000 as defined in 2 CFR 170.320;

II. in the preceding fiscal year, the grant recipient received—

(A) 80% or more of the annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and

(B) $25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and

III. The public does not have access to information on the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or Section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission (SEC) total compensation filings at https://www.sec.gov/answers/execomp.htm.)

II. *Where and when to report.* The grant award recipient must report executive total compensation described in paragraph [2.a.] of this award term:

a. As part of your registration profile at http://www.sam.gov.

b. By the end of the month following the month in which this award is made, and annually thereafter.

3. Reporting of Total Compensation of Subrecipient Executives.

I. *Applicability and what to report.* Unless the grant recipient is exempt as provided in paragraph [4.]of this award term, for each first-tier non-Federal entity subrecipient under this award, the grant award recipient shall report the

names and total compensation of each of the subrecipient's five most highly compensated executives for the subrecipient's preceding completed fiscal year, if—

I. in the subrecipient's preceding fiscal year, the subrecipient received—

(A) 80% or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and

(B) $25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal financial assistance subject to the Transparency Act (and subawards); and

II. The public does not have access to information on the compensation of the executives through periodic reports filed under Section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or Section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the SEC total compensation filings at https://www.sec.gov/answers/execomp.htm.)

II. *Where and when to report.* The grant award recipient must report subrecipient executive total compensation described in paragraph [3.a] of this award term:

I. To the recipient.

II. By the end of the month following the month during which the grant recipient make the subaward. For example, if a subaward is obligated on any date during the month of October of a given year (i.e., between October 1 and 31), the grant recipient must report any required compensation information of the subrecipient by November 30 of that year.

4. Exemptions.
   If, in the previous tax year, the grant award recipient had gross income, from all sources, under $300,000, the grant recipient is exempt from the requirements to report:
   a. Subawards, and
   b. The total compensation of the five most highly compensated executives of any subrecipient.
5. Definitions.
   For purposes of this award term:
   a. *Federal Agency* means a Federal agency as defined at 5 U.S.C. 551(1) and further clarified by 5 U.S.C. 552(f).
   b. *Non-Federal Entity* means all of the following, as defined in 2 CFR part 25:
      I. A Governmental organization, which is a State, local government, or Indian tribe;
      II. A foreign public entity;
      III. A domestic or foreign nonprofit organization; and
      IV. A domestic or foreign for-profit organization.
   c. *Executive* means officers, managing partners, or any other employees in management positions.

d. *Subaward*:
   I. This term is used as a legal instrument to provide support for the performance of any portion of the substantive project or program for which the grant recipient received this award and that the grant recipient as the recipient award to an eligible subrecipient.
   II. The term does not include the grant award recipient procurement of property and services needed to carry out the project or program (for further explanation, see [2 CFR 200.330]).
   III. A subaward may be provided through any legal agreement, including an agreement that the grant recipient or a subrecipient considers a contract.

e. *Subrecipient* means a non-Federal entity or Federal agency that:
   I. Receives a subaward from the grant award recipient under this award; and
   II. Is accountable to the grant recipient for the use of the Federal funds provided by the subaward.

f. *Total* compensation means the cash and noncash dollar value earned by the executive during the recipient's or subrecipient's preceding fiscal year and includes the following (for more information see 17 CFR 229.402(c)(2)):
   I. *Salary and bonus.*
   II. *Awards of stock, stock options, and stock appreciation rights.* Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.
   III. *Earnings for services under non-equity incentive plans*. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.
   IV. *Change in pension value.* This is the change in present value of defined benefit and actuarial pension plans.
   V. *Above-market earnings on deferred compensation which is not tax-qualified.*
   VI. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds $10,000.

f. Monitoring, Technical Assistance, and Additional Specific Conditions of Award

All grant recipients, including states and territories managing the Unemployment Insurance programs, are subject to 2 CFR 200.208, *Specific conditions*, which indicates that the Federal awarding agency may adjust specific award conditions as needed. A specific condition is based on an analysis of the following factors:

> (1) Based on the criteria in §200.206, *Federal awarding agency review of risk posed by applicants*;

(2) The applicant or recipient's history of compliance with the general or specific terms and conditions of a Federal award;

(3) The applicant or recipient's ability to meet expected performance goals as described in §200.211; or

(4) A responsibility determination of an applicant or recipient.

Additional Federal award conditions may include items such as the following:

(1) Requiring payments as reimbursements rather than advance payments;

(2) Withholding authority to proceed to the next phase until receipt of evidence of acceptable performance within a given performance period;

(3) Requiring additional, more detailed financial reports;

(4) Requiring additional project monitoring;

(5) Requiring the non-Federal entity to obtain technical or management assistance; or

(6) Establishing additional prior approvals.

Grant recipients may be required to obtain technical or management assistance through an established provider/contractor that has been selected or hired by DOL that may include in-person or remote assistance.

g. Personally Identifiable Information

The grant award recipient(s) must recognize and safeguard Personally Identifiable Information (PII) except where disclosure is allowed by prior written approval of the Grant Officer or by court order. Award recipients must meet the requirements in TEGL No. 39-11, Guidance on the Handling and Protection of PII, can be found at http://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=7872.

h. Pre-Award

All costs incurred by the award recipient prior to the start date specified in the grant award issued by the Department are ***incurred at the recipient's own expense.***

i. Procurement

The Procurement Standards found in the Uniform Guidance at 2 CFR 200.318-327 require all grant award recipients and subrecipients to conduct procurement transactions in a manner that promote practical, open, and free competition. The award recipient's description in the SOW of a specific entity that will provide goods or services does not constitute approval or justification of sole-source procurement from this entity.

The Uniform Guidance (at 2 CFR 200.317) requires States (as defined at 2 CFR 200.1) to follow the same procurement policies and procedures it uses for non-Federal funds. The State must comply with 2 CFR 200.321, 200.322, and 200.323 and ensure that every purchase order or other contract includes any clauses required by § 200.327.

The Uniform Guidance (2 CFR 200.317) require States (as defined at 2 CFR 200.1) to follow the same procurement policies and procedures it uses for non-Federal funds. The state must comply with 2 CFR 200.321, 200.322, and 200.323 and ensure that every purchase order or other contract includes any clauses required by § 200.327. The grant award recipient(s) must also follow the requirements regarding the competitive selection of One-Stop Operators at WIOA Sections 121(d) and 123.

j. Program Income

The Addition method as described in 2 CFR 200.307 must be used in allocating any program income generated for this grant award. The grant award recipient must expend all program income prior to drawing down any additional funds as required at 2 CFR 200.305(b)(5) and 2 CFR 200.307(e). Any program income found remaining at the end of period of performance must be returned to ETA. In addition, the grant award recipient(s) must report program income on the quarterly financial report using the ETA-9130 report.

For the YouthBuild program, please refer to 20 CFR 688.590 for guidance on program income.

k. Recipient Integrity and Performance Matters

1. If the total value of the currently active grants, cooperative agreements, and procurement contracts from all Federal awarding agencies exceeds $10,000,000 for any period of time during the period of performance of this Federal award, then the grant award recipient during that period of time must maintain the currency of information reported to the System for Award Management (SAM) that is made available in the designated integrity and performance system (currently the Federal Awardee Performance and Integrity Information System (FAPIIS)) about civil, criminal, or administrative proceedings described in Paragraph 2 of this award term and condition. This is a statutory requirement under Section 872 of Public Law 110-417, as amended (41 U.S.C. 2313). As required by Section 3010 of Public Law 111-212, all information posted in the designated integrity and performance system on or after April 15, 2011, except past performance reviews required for Federal procurement contracts, will be publicly available.

2. Proceedings about which the grant recipient must report. Submit the information required about each proceeding that:
   a. Is in connection with the award or performance of a grant, cooperative agreement, or procurement contract from the Federal Government;
   b. Reached its final disposition during the most recent 5-year period; and
   c. Is one of the following:

I. A criminal proceeding that resulted in a conviction, as defined in Paragraph 5. of this award term;
II. A civil proceeding that resulted in a finding of fault and liability and paying a monetary fine, penalty, reimbursement, restitution, or damages of $5,000 or more;
III. An administrative proceeding, as defined in Paragraph 5. of this award term, that resulted in a finding of fault and liability and grant recipient payment of either monetary fine or penalty of $5,000 or more or a reimbursement, restitution, or damages in excess of $100,000; or
IV. Any other criminal, civil, or administrative proceeding if:
(A) It could have led to an outcome described in Paragraph 2.c.I, II, or III of this award term;
(B) It had a different disposition arrived at by consent or compromise with an acknowledgment of fault on the grant recipient's part; and
(C) The requirement in this award term to disclose information about the proceeding does not conflict with applicable laws and regulations.

3. Reporting procedures. Enter in SAM, Entity Management area (formerly CCR), or any successor system, the FAPIIS information that SAM requires about each proceeding described in Paragraph 2. of this award term. The grant award recipient does not need to submit the information a second time under assistance awards that were received if the recipient already provided the information through SAM (formerly CCR) because the recipient was required to do so under Federal procurement contracts that the recipient was awarded.

4. Reporting frequency. During any period of time when the grant award recipient is a subject to the requirement in paragraph 1. of this award term, the grant recipient must report FAPIIS information through SAM no less frequently than semiannually following the initial report of any proceedings for the most recent 5-year period, either to report new information about any proceeding(s) that the grant recipient has not reported previously or affirm that there is no new information to report.

5. Definitions. For purposes of this award term:

a. Administrative proceeding means a non-judicial process that is adjudicatory in nature in order to make a determination of fault or liability (e.g., SEC Administrative proceedings, Civilian Board of Contract Appeals proceedings, and Armed Services Board of Contract Appeals proceedings). This includes proceedings at the Federal and State level. It does not include audits, site visits, corrective plans, or inspection of deliverables.
b. Conviction, for purposes of this award term, means a judgment or conviction of a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or a plea, and includes a conviction entered upon a plea of nolo contendere.
c. Total value of currently active grants, cooperative agreements, and procurement contracts includes —

i. Only the Federal share of the funding under any award with a recipient cost share or match; and
ii. The value of all options, even if not yet exercised.

l. Reports

All ETA grant award recipients are required to submit quarterly financial and narrative progress reports for each grant award.

a. **Quarterly Financial Reports.** All ETA grant award recipients are required to report financial data on the ETA-9130 Finanical Report. ETA-9130 reports are due no later than 45 calendar days after the end of each specified reporting quarter. Reporting quarter end dates are March 31, June 30, September 30, and December 31. A final financial report must be submitted no later than 45 calendar days after the quarter encompassing the grant award end date ends, or 45 calendar days after the completion of the quarter in which all funds have been expended, whichever comes first. For grants awarded before November 12, 2020, a closeout ETA-9130 report must be submitted no later than 90 calendar days after the grant period of performance ends. For grants awarded after November 12, 2020, a closeout ETA-9130 report must be submitted no later than 120 calendar days after the grant period of performance ends. See 2 CFR 200.344. A closeout report will be submitted during the closeout process. For additional guidance on ETA's financial reporting, reference TEGL 20-19 and https://www.doleta.gov/grants/pdf/ETA-9130_Financial_Reporting_Resources.pdf

   The instructions for accessing both the online financial reporting system and the HHS PMS can be found in the transmittal memo accompanying this NOA.

b. **Quarterly Narrative Progress Reports**. Grant recipients are required to submit a narrative quarterly and final report on grant activities funded under this award. All reports are due no later than 45 calendar days after the end of each specified reporting quarter. Reporting quarter end dates are March 31, June 30, September 30, and December 31.

   1. The last quarterly progress report that award recipients submit will serve as the grant's Final Performance Report. This report should provide both ***quarterly and cumulative*** information on the grant's activities. It must summarize project activities, employment outcomes and other deliverables, and related results of the project.

   2. The grant award recipient shall use any standard forms and instructions to report on training and employment outcomes and other data relating to the progress reports as provided by ETA.

   3. The grant award recipient shall utilize standard reporting processes and electronic reporting systems to submit their quarterly progress reports as

provided by ETA.

m. Requirements for Conference and Conference Space

Conferences sponsored in whole or in part by the grant award recipient are allowable if the conference is necessary and reasonable for the successful performance of the Federal Award. The grant award recipients 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 on the requirements and the allowability of costs associated with conferences, refer to 2 CFR 200.432. Recipients will be held accountable to the requirements in 2 CFR 200.432. Therefore, costs that do not comply with 2 CFR 200.432 will be questioned and may be disallowed.

n. 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. The recipient is responsible for monitoring the subrecipient, ensuring that the Terms and Conditions are in all subaward packages and that the subrecipient complies with all applicable regulations and the Terms and Conditions of this award (2 CFR 200.101(b)).

o. Supportive Services & Participant Support Costs

When supportive services are expressly authorized by a program statute, regulation, or FOA, this award waives the prior approval requirement for participant support costs as described in 2 CFR 200.456. Costs must still meet the basic considerations at 2 CFR 200.402 – 200.411. Questions regarding supportive services and participant support costs should be directed to the FPO who is assigned to the grant.

p. System for Award Management (SAM)

SAM is the official federal system that collects, validates, stores, and disseminates business information about the federal government's trading partners in support of contract awards, grants, and electronic payment processes. A SAM registration is required for an entity to be able to apply for federal grants, to request modifications to existing grants, and to enable them to closeout expiring grants. See Training and Employment Notice (TEGL) 18-17 for additional guidance.

Unless the grant award recipient is exempt from this requirement under 2 CFR 25.110, the grant recipient must maintain current its information in the SAM. This includes information on the recipient's immediate and highest level owner and subsidiaries, as well as on all of the recipient's predecessors that have been awarded a Federal contract or Federal financial assistance within the last three years, if applicable, until the grant

recipient submits the final financial report required under this Federal award or receive the final payment, whichever is later. This requires that the grant recipient review and update the information at least annually after the initial registration, and more frequently if required by changes in its information or another Federal award term.

1. Unique Entity Identifier Requirements

If the grant award recipient is authorized to make subawards under this award, then the grant recipient:

i. Must notify potential subrecipients that no entity (see definitions below) may receive a subaward from the grant award recipient until the entity has provided its unique entity identifier to the grant recipient.

ii. May not make a subaward to an entity unless the entity has provided its Unique Entity Identifier to the grant recipient. Subrecipients are not required to obtain an active SAM registration, but must obtain a Unique Entity Identifier.

NOTE: At some point, the DUNS Number will be replaced by a new, non-proprietary identifier requested in and assigned by SAM.gov. This new identifier is being called the Unique Entity Identifier (UEI), or the Entity ID. Users should continue using the DUNS Number in UEI fields until further notice. To learn more about SAM's rollout of the UEI, please visit gsa.gov/entityid.

2. Definitions

For purposes of this term:

i. SAM is the Federal repository where the grant award recipients must provide information required for the conduct of business as recipients. Additional information about registration procedures may be found at the SAM website (http://www.sam.gov).

ii. *Unique entity identifier* means the identifier assigned by SAM to uniquely identify business entities.

iii. *Entity,* as it is used in this grant award term, includes all of the following, as defined at 2 CFR Part 25, Appendix A:

a. A non-Federal entity as defined at 2 CFR 200.1 (A State, local government, Indian Tribe, Institute of Higher Education (IHE), or nonprofit organization that carries out a Federal award as a recipient or subrecipient);

b. A foreign organization;

c. A foreign public entity;

d. A domestic for-profit organization; and

e. A Federal agency.

iv. *Subaward* means*:*

An award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a Federal award received by the pass-through entity. 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 pass-through entity considers a contract.

v. *Subrecipient* means:

An entity, usually but not limited to non-Federal entities, that receives a subaward from a pass-through entity to carry out part of a Federal award; but does not include an individual that is a beneficiary of such award. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency.

3. Existing SAM Registrants

ETA advises grant recipients registered in SAM to review their registration information, particularly their financial information and points of contact. Assistance is available by contacting the Federal Service Desk at www.fsd.gov. Grant recipients should contact ETA at ETAAccountingGrants@dol.gov if they find that payments have been paid to a bank account other than their registered bank account.

ETA further encourages grant recipients to review the expiration date of their SAM registration and begin the renewal process well in advance, to ensure that their registration remains valid. If the grant recipient has not logged in and updated its entity registration record within at least the past 365 days, its record will expire and go into inactive status. Timely renewal will ensure that the grant recipient can continue to request and receive modifications to their existing grants, as well as apply for new funding opportunities. Further, the DUNS and EIN numbers must remain active until the grant award closeout process is fully completed.

4. Validation

ETA routinely checks the validity of a grant recipient's SAM registration and verifies that the recipient isn't included on the excluded parties list before making a grant award, or approving a modification to an existing award. Failure to have an active SAM registration can delay grant recipients from receiving their initial award or requested modifications to their existing awards.

q. 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 (see 2 CFR 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 CFR 200.331. When procuring contractors for goods and services, DOL/ETA recipients and subrecipients, must follow the procurement requirements found at 2 CFR 200.319, except states, pursuant to 2 CFR 200.317,which calls for free and open competition.

r. Whistleblower Protection

This grant award and employees working on this grant award are subject to the whistleblower rights and remedies established at 41 U.S.C. 4712. The grant award recipient 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 CFR 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 recipient shall insert the substance of this clause in all subgrants and contracts over the Simplified Acquisition Threshold.

s. Telecommunications

Grant recipients must adhere to 2 CFR 200.216 - Prohibition on certain telecommunications and video surveillance services or equipment. (Effective August 13, 2020)

(a) Recipients and subrecipients are prohibited from obligating or expending loan or 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). (ii) Telecommunications or video surveillance services provided by such entities or using such equipment. (iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country. (b) In implementing the prohibition under Public Law 115-232, section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained. (c) See Public Law 115-232, section 889 for additional information. (d) See also §200.471.

t. Intellectual Property Rights

The Federal Government reserves a paid-up, nonexclusive and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use for federal purposes: i) the copyright in all products developed under the grant, including a subgrant or contract under the grant or subgrant; and ii) any rights of copyright to which the grant award 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.

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 the 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.

If revenues are generated by selling products developed with grant funds, including intellectual property, these revenues are considered as program income. Program income must be used in accordance with the provisions of this grant award and 2 CFR 200.307.

The following language must be on all workforce 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 (DOL)'s Employment and Training Administration (ETA). The product was created by the recipient and does not necessarily reflect the official position of DOL/ETA. DOL/ETA 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."

u. Open Licensing, Intellectual Property Rights, and the Bayh-Dole Act

As required at 2 CFR 2900.13, any intellectual property developed under a discretionary Federal award process must be licensed under an open license, which allows subsequent users to copy, distribute, transmit and adapt the copyrighted work and attribute the work in the manner specified by the recipient.

All small business firms, and non-profit organizations (as defined at the link below, and including Institutions of Higher Education) must adhere to the Bayh-Dole Act, which requirements are provided at 37 CFR 401.3(a) and at https://www.dol.gov/sites/dolgov/files/ETA/grants/pdfs/BayhDoleGrantTerm.pdf. To summarize, these requirements describe the ownership of intellectual property rights and the government's nonexclusive, nontransferable, irrevocable, paid-up license to use any invention conceived or first actually reduced to practice in the performance of work

under this grant award. These requirements are in addition to those found in the Intellectual Property Rights term above.

v. 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 CFR Part 200.322 must be included in all subawards including all contracts and purchase orders for work or products under this award.

11. Program Requirements

The Funding Opportunity Announcement contains the program requirements for this award.

12. Federal Appropriations Requirements

a. Requirement to Provide Certain Information in Public Communications

Pursuant to P.L. 116-260, Division H, Title V, Section 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:

1. The percentage of the total costs of the program or project which will be financed with Federal money;
2. The dollar amount of Federal funds for the project or program; and
3. 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 term are separate from those in 2 CFR Part 200 and, when applicable, both must be complied with.

b. Fair Labor Standards Act Amendment for Major Disasters

Pursuant to P.L. 116-260, Division H, Title I, 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—
> (A) 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;

(B) who receives from such employer on 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 employee is engaged in any of the activities described in subparagraph (C); and (C) 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% 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."

c. 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 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.

d. Privacy Act

No funds can be used in contravention of 5 U.S.C. 552a (the Privacy Act) or regulations implementing the Privacy Act.

e. Prohibition on Contracting with Corporations with Felony Criminal Convictions

The recipient may not knowingly enter into a contract, memorandum of understanding, or cooperative agreement with, make a grant 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.

f. Prohibition on Contracting with Corporations with Unpaid Tax Liabilities

The grant award recipient may not knowingly enter into a contract, memorandum of understanding, or cooperative agreement with, make a grant 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.

g. Prohibition on Procuring Goods Obtained Through Child Labor

Pursuant to P.L. 116-260, Division H, Title I, Section 103, 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 here: https://www.dol.gov/agencies/ilab/reports/child-labor/list-of-products.

h. Prohibition on Providing Federal Funds to Association of Community Organizations for Reform Now (ACORN)

Pursuant to P.L. 116-260, Division H, Title V, Section 521, these funds may not be provided to the ACORN, or any of its affiliates, subsidiaries, allied organizations or successors.

i. 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 a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information.

j. Requirement for Blocking Pornography

Pursuant to P.L. 116-260, 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.

k. Restriction on Health Benefits Coverage for Abortions

Pursuant to P.L. 116-260, Division H, Title V, Section 506 and 507, Federal funds may not be expended for health benefits coverage that includes coverage of abortions, except when the pregnancy is the result of rape or incest, or in the case where a woman suffers from a physical disorder, physical injury, or physical illness, including a life-endangering physical condition 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 grant 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.

l. Restriction on Lobbying/Advocacy

Pursuant to P.L. 116-260, Division H, Title V, Section 503, no federal funds may be used to pay the salary or expenses of any grant recipient, or agent acting for such recipient, related to any activity designed to influence the enactment of legislation, appropriations, regulation, administrative action, or executive order proposed or pending before the Congress or any state government, state legislature or local legislature or legislative body, other than for normal and recognized executive–legislative relationships or 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.

m. Publicity

Pursuant to P.L. 116-260, Division H, Title V, Section 503, the grant award recipient 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, electronic communication, radio, television, or video 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.

n. Restriction on the Promotion of Drug Legalization

Pursuant to P.L. 116-260, 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 and 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.

o. Restriction on Purchase of Sterile Needles or Syringes

Pursuant to P.L. 116-260, Division H, Title V, Section 527, no Federal funds shall be used to purchase sterile needles or syringes for the hypodermic injection of any illegal drug.

p. Salary and Bonus Limitations

Pursuant to P.L. 116-260, Division H, Title I, Section 105, recipients and 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 OPM.gov 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 CFR 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, 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 ETA programs. See TEGL 5-06 for further clarification, available at http://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=2262.

13. Public Policy

a. Architectural Barriers

The Architectural Barriers Act of 1968, 42 U.S.C. 4151 et seq., as amended, the Federal Property Management Regulations (see 41 CFR 102-76), and the Uniform Federal Accessibility Standards issued by the U.S. General Services Administration (GSA) (see 36 CFR 1191, Appendixes 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.

b. Drug-Free Workplace

The Drug-Free Workplace Act of 1988, 41 U.S.C. 702 et seq., and 2 CFR 182 require that all award recipients receiving grants from any Federal agency maintain a drug-free workplace. The award recipient must notify the awarding office if an employee of the recipient is convicted of violating a criminal drug statute. Failure to comply with these requirements may be cause for suspension or debarment.

c. Executive Orders

12928: Pursuant to Executive Order (EO) 12928, the grant award recipient is 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.

13043: Pursuant to EO 13043, Increasing Seat Belt Use in the United States, dated April 16, 1997, the grant award recipients 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.

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, recipients 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, pages 32289-32305. Meaningful access may entail providing language assistance services, including oral and written translation, where necessary. The grant award recipients 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 your LEP obligations, go to http://www.lep.gov.

13513: Pursuant to EO 13513, Federal Leadership On Reducing Text Messaging While Driving, dated October 1, 2009, the grant award recipients and subrecipients are encouraged to adopt and enforce policies that ban text messaging while driving company-owned or -rented vehicles or government-owned vehicles (GOV), or while driving privately-owned vehicles (POV) when on official Government business or when performing any work for or on behalf of the Government. Recipients and subrecipients are also encouraged to conduct initiatives of the type described in section 3(a) of this order.

14005: Pursuant to EO 14005, Ensuring the Future Is Made in All of America by All of America's Workers, the grant award recipient agrees to comply with all applicable Made in America Laws (as defined in the EO), including the Buy American Act at 41 USC sections 8301-8305. For the purposes of this award, the grant recipient 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 (Public Law 66-261), also known as the Jones Act.

d. 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 1 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 FEMA.

e. Hotel-Motel Fire Safety

Pursuant to 15 U.S.C. 2225a, the recipient 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 (P.L. 101-391, as amended). Recipients 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.

f. Prohibition on Trafficking in Persons

1. Trafficking in persons.

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

I. The grant recipient as the recipient, the grantee's employees, subrecipients under this award, and subrecipients' employees may not—

(A). Engage in severe forms of trafficking in persons during the period of time that the grant award is in effect;

(B). Procure a commercial sex act during the period of time that the award is in effect; or

(C). Use forced labor in the performance of the award or subawards under the award.

II. DOL/ETA as the Federal awarding agency may unilaterally terminate this grant award, without penalty, if the grant recipient or a subrecipient that is a private entity —

(A). Is determined to have violated a prohibition in paragraph a.1 of this award term; or

(B). 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—

i. Associated with performance under this award; or

ii. 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 CFR Part 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," as implemented by our agency at 2 CFR Part 2998.

b. *Provision applicable to a recipient other than a private entity.* DOL/ETA as the Federal awarding agency may unilaterally terminate this grant award, without penalty, if a subrecipient that is a private entity—

I. Is determined to have violated an applicable prohibition in paragraph a.1 of this grant award term; or

II. 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 grant award term through conduct that is either—

(A). Associated with performance under this award; or

(B). 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 CFR part 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," as implemented by our agency at 29 CFR Part 98.

c. *Provisions applicable to any recipient.*

I. The grant award recipient must inform DOL/ETA immediately of any information the grant recipient receive from any source alleging a violation of a prohibition in paragraph a.1 of this grant award term.

II. DOL/ETA right to terminate unilaterally that is described in paragraph a.2 or b of this section:

(A). Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), and

(B). Is in addition to all other remedies for noncompliance that are available to DOL/ETA under this grant award.

III. The grant award recipient must include the requirements of paragraph a.1 of this grant award term in any subaward the grant recipient make to a private entity.

d. *Definitions.* For purposes of this award term:

I. "Employee" means either:

(A). An individual employed by the grant award recipient or a subrecipient who is engaged in the performance of the project or program under this award; or

(B). Another person engaged in the performance of the project or program under this grant award and not compensated by the grant recipient 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.

II. "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 subjection to involuntary servitude, peonage, debt bondage, or slavery.

III. "Private entity":

(A). Means any entity other than a State, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 CFR 175.25.

(B). Includes:

i. 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 CFR 175.25(b).

ii. A for-profit organization.

IV. "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).

g. Veterans' Priority Provisions

The Jobs for Veterans Act (Public Law 107-288) requires grant award recipients 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 CFR Part 1010. In circumstances where a grant award 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 award 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. Recipients must comply with the DOL guidance on veterans' priority. ETA's TEGL No. 10-09 (issued November 10, 2009) 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. TEGL No. 10-09 is available at http://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=2816.

h. Promoting Equitable Delivery of Government Benefits and Equal Opportunity

The Department of Labor (Labor) 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 recipients must execute the terms and conditions of their grant 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 grant 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, and Labor's grantees should make services the goods and services they provide pursuant to their grants widely available with the goals of effectively serving a diverse population of eligible individuals; fairly, justly, and impartially administering the grant evaluation and award processes. Grantees 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."

i. Harassment Prohibited

The grant recipient and any 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.

a) 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 basi(e)s when:

(1) 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;

(2) 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

(3) 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.

b) 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.

14. Technical Assistance, Resources, and Information

Additional resources, training, and information to assist the grant award recipient are located on the ETA website at https://www.dol.gov/agencies/eta/grants/resources and on the Grants Application and Management collection page on WorkforceGPS.org at https://grantsapplicationandmanagement.workforcegps.org/. **SMART** training is a technical assistance initiative sponsored by DOL-ETA to assist its grant recipients and subrecipients in improving its program/project operations through effective grants management. Please take some time to review the training modules which are focused on:

Strategies for sound grant management that include:
Monitoring,
Accountability,
Risk mitigation and
Transparency.

These four themes are woven throughout the OMB Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, also known as the Uniform Guidance (2 CFR Part 200 and 2 CFR Part 2900). The 508-compliant PowerPoints of the modules may be found on WorkforceGPS.org at the Resource page.

15. Attachments

Attachment A: SF-424
Attachment B: SF-424A
Attachment C: Budget Narrative
Attachment D: Statement of Work