

## PART IV

### PROGRAM TERMS AND CONDITIONS

**WHEREAS**, the Workforce Investment Act of 1998 (the Act) authorizes the Department to provide financial and technical assistance to qualified recipients in order to support workforce investment activities through statewide and local workforce investment systems, that will result in increased employment retention and earnings of participants, and increased occupational skill attainment by participants, and as a result, improve the quality of the workforce, reduce welfare dependency, and enhance the productivity and competitiveness of the Nation;

**WHEREAS**, the Grantee has submitted a Workforce Investment Plan (the Plan) for the applicable Program Year(s) which has been approved by the Department as being consistent with the requirements of the Act.

**THEREFORE**, the Department makes this Grant to the Grantee, subject to the terms and conditions set forth in this Agreement.

#### **Section 4.1 COMPLIANCE WITH PROGRAM SPECIFIC LAWS AND REGULATIONS.**

The Grantee agrees to comply with the requirements of the Act, and with the regulations and policies promulgated thereunder by the federal government and the Department. The Grantee further agrees that this Agreement is subject to such modifications which the Department determines may be required by Federal or State law, rules, or regulations applicable to this Agreement. Any such required modifications shall be incorporated into and be a part of this Agreement as if fully set forth herein in accordance with the provisions of Section 5.7 hereof.

**Section 4.2 COMPENSATION TO THE GRANTEE.** Payments pursuant to this Grant Agreement are subject to the availability of Federal Workforce Investment Act funds and their appropriation or authorized expenditure under Illinois state law.

**A. Method of Compensation.** The method of compensation shall be in accordance with the applicable State laws relative to such compensation by which the Department is governed. Grantee shall comply with direction issued by the Department as to procedures to be followed when requesting disbursement of grant funds. All payment requests submitted by the Grantee shall be reviewed by the Department to ensure that such requests are:

- (1) in accordance with the approved grant budget (Part I hereof);
- (2) are in accordance with the Section of the Act applicable to Grantee's program, Section 129 or 134(b), and 20 CFR Part 667.220.

**B. Allowable Costs/Cost Principles.** Grantee is responsible for ensuring that it and any of its subrecipients follow those Federal cost principles set forth below which are applicable to Grantee or its subrecipients:

- (i) Allowable costs for state, local and Indian tribal government organizations are contained in OMB Circular A-87;
- (ii) Allowable costs for non-profit entities are contained in OMB Circular A-122;
- (iii) Allowable costs for institutions of higher education are contained in OMB Circular A-21; and
- (iv) Allowable costs for commercial organizations and those non-profit organizations listed in Attachment C to OMB Circular A-122 are contained in Federal Acquisition Regulations (FAR), at 48 CFR Part 31.

**C. Limitations on Compensation.**

- (1) The Grantee cannot be reimbursed for costs incurred in excess of the total approved grant budget. The Grantee may be reimbursed for costs exceeding amounts budgeted by specific cost categories only in accordance with provisions of Section 4.5 hereof;
- (2) Grantee shall be liable for repayment of any grant funds which are expended in violation of the terms of this Agreement. Grantee should obtain approval prior to incurring expenditures which necessitate a change in the approved grant budget. The Department reserves the right to withhold funds for such expenditures until a revised Plan has been submitted by the Grantee and approved by the Department.
- (3) An overpayment of grant funds (unliquidated balance) as of the end date of the grant term specified in the Notice of Grant Award shall be refunded to the Department within 45 days from said end date, accompanied by a final grant closeout report in the format provided by the Department. In addition, the Grantee agrees to repay the Department for any funds that are determined by the Department to have been spent improperly in accordance with applicable regulations or rules.

#### **Section 4.3 ACCOUNTING/FISCAL CONTROL REQUIREMENTS.**

**A.** The Grantee's financial management system shall be structured to provide for accurate, current and complete disclosure of the financial results of the grant program.

The Grantee shall be accountable for all funds received under this Grant Agreement and shall maintain effective control and accountability over all funds, equipment, property, and other assets under the Grant Agreement as required by the Department and agrees to maintain a minimum amount of cash on hand necessary to effectively operate the program. The Grantee shall keep records sufficient to permit the tracing of funds to a level of expenditure adequate to ensure that funds have not been spent unlawfully. Fund accounting procedures shall be established as may be necessary to assure the proper expenditure of an accounting for federal funds paid by the state to the Grantee, or any of its subrecipients, under this program, including procedures for monitoring the assistance provided under this program.

**B. Records Retention; Right of Inspection.** The Grantee is accountable for all funds received under this Agreement and shall maintain for a minimum of three (3) years following the date of submission by the Grantee of its final expenditure report, all books, records, and supporting documents necessary to verify the expenditure and use of funds provided under this Grant Agreement. This Agreement and all books, records and supporting documents related hereto shall be available for inspection and audit by the Department, the Auditor General of the State of Illinois, the Secretary of Labor and the Comptroller General of the United States or any of their duly authorized representatives. Grantee agrees to provide full access to all relevant materials and to provide copies of same upon request to any of the agencies named herein, or their designees.

In the event that an audit is commenced during the three-year period specified herein, said three (3) year period shall be extended for the duration of the audit and the Grantee agrees to cooperate fully with any audit conducted by or through said agencies. Failure to maintain books, records and supporting documents as required by this Agreement shall establish a presumption in favor of the Department for the recovery of any funds paid by the Department under this Agreement for which adequate books, records and supporting documentation are not available to support their purported disbursement.

If any of the services to be performed under this Agreement are subcontracted or subgranted, the Grantee shall include in all subcontracts or subgrant agreements covering such services, a provision that the agencies named herein, or any of their duly authorized representatives, will have full access to and the right to examine any pertinent books, documents, papers and records of any such subcontractor or subgrantee involving transactions related to this Agreement for the time period specified herein.

**Section 4.4 TRAVEL REGULATIONS.** Costs in accordance with the latest State of Illinois Travel Regulations or such reasonable travel policies approved and adopted by the Grantee are allowable for expenses for transportation, lodging, subsistence, and related items incurred by Grantee's employees who are in travel status on official business incident to the Grant program. If State of Illinois Travel Regulations are not followed by the Grantee, the Grantee must have on file its approved travel policy for reference by the Department, the Comptroller of the State of Illinois,

Comptroller General of the United States, or any of their duly authorized representatives. Provided, however, that travel expenses which exceed limitations established by Federal statute or regulation (including OMB circulars, etc.) applicable to this Agreement are not allowable costs under this Agreement. The Grantee must retain receipts on file as source documentation for travel expenses of its employees.

#### **Section 4.5 MODIFICATION AND AMENDMENT OF GRANT AGREEMENT.**

The following provisions relate solely to modifications of the approved Grant Budget (Part I hereof). Provisions relating to Modifications by Operation of Law or Discretionary Modifications are set forth in Section 5.7 of this Agreement.

**Modifications in Budget.** Modification in the Budget shall be in accordance with the following provisions:

1. If the grantee has reason to believe that its operation for the Grant period will result in an over expenditure of the amount budgeted for the programmatic cost category, the programmatic cost category may be over expended to the extent that the Administrative cost category is under expended.
2. If the Grantee has reason to believe that its operation for the grant period will exceed the total budget authorization, it shall request approval of the Department in writing. In no event shall the Grantee make any change in cost categories which increases or decreases the total budget without prior approval of the Department.
3. Failure of the Grantee to either request approval of the Department for anticipated budget variations or to formally request approval for variation of the total grant amount, except as provided under Section 4.5(B), herein, shall be deemed sufficient reason for the Department to disallow costs incurred in excess of specific cost category amounts or total grant amount as set forth in the Grant Budget even if the total costs incurred are within the legislated limitations of the cost categories.
4. If the Department grants a budget revision, a Grant Agreement Modification shall be issued by the Department incorporating a revised Grant Budget.

**Section 4.6 PUBLICATION, REPRODUCTION AND USE OF MATERIAL.** No material produced in whole or in part with funds provided under this Grant Agreement shall be subject to copyright in the United States or in any other country. All documents, including reports, studies and other materials developed, produced or generated by the Grantee or its subgrantees or subcontractors as part of the performance required under this Agreement are referred to herein as the Grant Documents. Grantee and the Department shall have the mutual right to publish, distribute, and use all Grant Documents without permission of or payment to the other Party. The Grantee will not publish or permit any other person to publish any Grant Documents without advance notice to the

Department. The Grantee shall acknowledge the Department as providing funds for any such publication, and shall accede to any request by the Department that appropriate disclaimer language be incorporated into the publication.

**Section 4.7 REPORTS REQUIRED.** The Grantee shall submit programmatic and expenditure reports as required pursuant to written direction issued by the Department to the Grantee.

**Section 4.8 MONITORING AND EVALUATION.** The Department will periodically monitor and evaluate programmatic activities and the financial records pursuant to this Grant Agreement. The Grantee will be monitored for compliance with all applicable Federal and State laws, regulations, and rules applicable to this Agreement. The Grantee's performance will be assessed to gauge its impact upon the target population and for the effective and efficient utilization of the Workforce Investment Act funds. Assessments will occur both during the operation of the program and upon its completion.

**Section 4.9 OWNERSHIP OF NONEXPENDABLE PERSONAL PROPERTY.** It is understood that nonexpendable personal property purchased by the grantee agency with funds provided under this Grant Agreement and nonexpendable personal property received from the Department shall not be the property of the grantee agency but shall be held by it in trust for the benefit of the People of the State of Illinois. Upon the termination of this Grant and upon the election of the Department, the Grantee shall surrender possession of such property to the Department or, ship same to any designated location.

**Section 4.10 PROPERTY MANAGEMENT.** The Grantee may not purchase nonexpendable personal property items exceeding \$5,000 without the Department's prior written approval. The Grantee agrees to comply with 29 CFR Part 95.34 or 29 CFR Part 97.32 i.e., OMB Circulars A-110 or A-102, as applicable to its organization in the management of nonexpendable personal property.

**Section 4.11 GRANTEES OVERSIGHT OF SUBRECIPIENTS.** The Grantee shall provide oversight and monitoring of subrecipients on a frequency which ensures that the financial systems of its subrecipients are in accordance with 20 CFR Parts 667.400(c)(1) and 667.410(a).

**Section 4.12 PROGRAM INCOME.** Program Income, as defined under 29 CFR Part 95.24 or 29 CFR Part 97.25, shall be used in accordance with 20 CFR Part 667.200(a)(5).

**Section 4.13 BONDING.** The Grantee shall provide bonding for every officer, director, agent or employee who handles funds (cash, checks or other instruments of payment for program costs) under this Grant Agreement. The amount of coverage shall be the higher of: (1) the highest cash draw down planned during the term of this agreement, or (2) \$100,000. The Grantee agrees to comply with OMB Circulars A-110 or A-102, as applicable.

**Section 4.14 PROCUREMENT.** The Grantee, if a unit of local government, shall follow the procurement standards as established in 29 CFR 97.36 paragraphs b through i and all other grantees shall follow the procurement standards in 29 CFR 95.40 through 95.48.

**Section 4.15 INTEREST INCOME.** All interest earned on funds advanced under this Grant Agreement shall be treated as program income in accordance with Section 195(7)(B)(iii) of the Act.

**Section 4.16 EQUAL OPPORTUNITY/NONDISCRIMINATION.** As a condition to the award of financial assistance under WIA from the Department of Labor, the grantee assures, with respect to operation of the WIA-funded program or activity, that it will comply fully with the nondiscrimination and equal opportunity provisions in Sec. 188 of the Workforce Investment Act of 1998; USDOL Regulation 29 CFR Part 37, as amended; USDOL Regulations at 29 CFR Parts 31 and 32, including the Nontraditional Employment for Women Act of 1991; Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973, as amended; Title IX of the Education Amendments of 1972, as amended; the Age Discrimination Act of 1975, as amended; The Civil Rights Restoration Act of 1987; Executive Order 12250; Age Discrimination in Employment Act of 1967; Federal Equal Pay Act of 1963; Illinois Equal Pay Act of 2003; U.S. Department of Labor Regulations at 28 CFR Part 42, Subparts F & H; Title VII of the Civil Rights Act of 1964, as amended, and Victims Economic Security and Safety Act.

**Section 4.17 COMPLAINT PROCESS.** The Grantee shall comply with the grievance procedure(s) contained in Section 181(c) of the Workforce Investment Act, and any state issued policy guidance.

**Section 4.18 CONFLICT OF INTEREST.** In addition to any other conflict of interest provisions set forth in this Agreement, the Grantee and its employees are subject to the provisions of Section 117(g) of the Act.

**Section 4.19 SALARY AND BONUS LIMITATIONS.** In compliance with Public Law 109-234, none of the funds appropriated in Public Law 109-149 or prior Acts under the heading 'Employment and Training' that are available for expenditure on or after June 15, 2006, shall be used by a recipient or subrecipient of such funds to pay the salary and bonuses of an individual, either as direct costs or indirect costs, at a rate in excess of Executive Level II, except as provided for under section 101 of Public Law 109-149. This limitation shall not apply to vendors providing goods and services as defined in OMB Circular A-133. Where States are recipients of such funds, States may establish a lower limit for salaries and bonuses of those receiving salaries and bonuses from subrecipients of such funds, taking into account factors including the relative cost-of-living in the State, the compensation levels for comparable State or local government employees, and the size of the organizations that administer Federal programs involved including Employment and Training Administration programs. See Training and Employment Guidance Letter number 5-06 for further clarification.

**Section 4.20 ASSURANCES.** The provision by the Grantee of the following assurances and certifications in no way affects the Grantee's obligation to comply with every provision of this Agreement, even if not specifically mentioned in this Section 4.20. The Grantee hereby assures and certifies compliance with each of the requirements applicable to its Program:

1. It will comply with Program Requirements as provided for under Sections 181, 183, 184, 186, 187, 189 and 195 of the Act.
2. It will comply with 20 CFR Part 667.264(a)(2) prohibiting utilization of funds to carry out public service employment programs under Title I of the Act.
3. It will comply with the limitations on the use of funds as provided for under 20 CFR Part 667.264(a) and 20 CFR Part 667.264(b).
4. It will comply with Section 189(h) of the Act, by assuring that each individual participating in any program established under the Act, or receiving any assistance under the Act, has not violated Section 3 of the Military Selective Service Act (50 U.S.C. appl. 453).
5. It will permit and cooperate with federal investigations undertaken in accordance with Section 185 of the Act.
6. It will comply with Section 134(e)(3) of the Act and 20 CFR Parts 663.815, 663.820, 663.825, 663.830 and 663.840 in making needs-based payments to individuals participating in a training program.
7. It will comply with the record retention requirements contained in 29 CFR 95.53 or 29 CFR 97.42.
8. It agrees to comply with 29 CFR Part 667.270 which prohibits replacing a currently employed worker with any WIA participant.
9. It will only serve non-economically disadvantaged participants in accordance with Section 129(c)(5) of the Act.
10. It agrees to comply with 20 CFR Part 667.262(a), prohibiting funds to be used for employment generating activities, economic development and other similar activities unless they are directly related to training for eligible individuals.
11. It will comply, and require all lower tier subrecipients to comply, with the policy on lobbying restrictions as established in accordance with 29 CFR Part 93.

12. It will comply with the policy on debarment and suspension regulations as established in accordance with 29 CFR Part 98.
13. It will require all commercial organizations, which are lower tier subrecipients and which expend more than the minimum level specified in OMB Circular A-133 (\$500,000 as of July 28, 2003) have either an organization-wide audit conducted in accordance with A-133 or a program specific financial and compliance audit.
14. It will comply with Sections 134(d)(4)(F)(iii) and 134(d)(4)(G) of the Act.
15. Equal Employment Opportunity. All contracts shall contain a provision requiring compliance with E.O. 11246, Equal Employment Opportunity, as amended by E.O. 11375, Amending Executive Order 11246 Relating to Equal Employment Opportunity, and as supplemented by regulations at 41 CFR Part 60, Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.
16. Where applicable, Grantee shall comply with the Copeland Anti-Kickback Act (18 U.S.C. 874) as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public works, to give up any part of the compensation to which one is otherwise entitled. The recipient shall report all suspected or reported violations to the Federal awarding agency.
17. Where applicable, the Grantee shall comply with the Davis-Bacon Act, as supplemented by Department of Labor regulations (29 CFR Part 5, Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction). Under this Act, contractors shall be required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. In addition, contractors shall be required to pay wages not less than once a week. The recipient shall place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation and the award of a contract shall be conditioned upon the acceptance of the wage determination. The recipient shall report all suspected or reported violations to the Federal awarding agency.
18. Where applicable, Grantee shall comply with Sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), as supplemented by Department of Labor regulations (29 CFR Part 5). Under Section 102 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is

permissible provided that the worker is compensated at a rate of not less than 12 times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

19. Where applicable, Grantee shall comply with all requirements relating to the performance of experimental, developmental, or research work including providing for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR Part 401, Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements, and any implementing regulations issued by the awarding agency.
20. Where applicable, the Grantee shall comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.). Violations shall be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
21. Where applicable, Grantee shall comply with the provisions of the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, 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 recipient.
22. Grantee shall comply with the provisions of Debarment and Suspension (E.O.'s 12549 and 12689). No contract shall be made to parties listed on the General Services Administration's List of Parties Excluded from Federal Procurement or Nonprocurement Programs in accordance with E.O.'s 12549 and 12689, Debarment and Suspension. This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than E.O. 12549. Contractors with awards that exceed the small purchase threshold shall provide the required certification regarding its exclusion status and that of its principal employees.

**PART V  
GENERAL PROVISIONS**

**5.1 GRANTEE REPRESENTATIONS AND WARRANTIES; GRANTEE  
GENERAL COVENANTS**

- A. Grantee Representations and Warranties.** In connection with the execution and delivery of this Agreement, the Grantee makes the following representations and warranties to the Department:
- (1) that it has all requisite authority to carry on its business and to execute, deliver and consummate the transactions contemplated by this Agreement;
  - (2) that its employees, agents and officials are competent to perform as required under this Agreement;
  - (3) that it is the real party in interest to this Agreement and is not acting for or on behalf of an undisclosed party;
  - (4) that it has taken all necessary action under its governing documents to authorize the execution and performance of this Agreement under the terms and conditions stated herein;
  - (5) that it has no public or private interest, direct or indirect, and shall not acquire, directly or indirectly any such interest which does or may conflict in any manner with the performance of the Grantee's services and obligations under this agreement;
  - (6) that no member of any governing body or any officer, agent or employee of the State, is employed by the Grantee or has a financial or economic interest directly in this agreement or the compensation to be paid hereunder except as may be permitted applicable statute, regulation or ordinance;
  - (7) that there is no action, suit or proceeding at law or in equity pending, nor to the best of Grantee's knowledge, threatened, against or affecting the Grantee, before any court or before any governmental or administrative agency, which will have a material adverse effect on the performance required by this Agreement;
  - (8) that this agreement has been duly executed and delivered on behalf of the Grantee and constitutes a legal, valid and binding obligation of the Grantee, enforceable in accordance with its terms, except to the extent that enforcement of any such terms may be limited by (a) applicable bankruptcy, reorganization, debt arrangement, insolvency or other

similar laws generally affecting creditors' rights; or (b) judicial public policy limitations upon the enforcement of certain remedies including those which a court of equity may in its discretion decline to enforce; and performance required under this Agreement;

- (9) Grantee's execution of this Agreement shall serve as its attestation that Grantee has read, understands and agrees to all provisions of this Agreement and to be bound thereby. Grantee further acknowledges that the individual executing this agreement is authorized to do so on the Grantee's behalf, and;
- (10) Grantee certifies that it is not currently operating under or subject to any cease and desist order, or subject to any informal or formal regulatory action, and, to the best of Grantee's knowledge, that it is not currently the subject of any investigation by any state or federal regulatory, law enforcement or legal authority. Should it become the subject of an investigation by any state or federal regulatory, law enforcement or legal authority, Grantee shall promptly notify the Department of any such investigation. Grantee acknowledges that should it later be subject to an cease and desist order, Memorandum of Understanding, or found in violation pursuant to any regulatory action or any court action or proceeding before any administrative agency, that the Department is authorized to declare Grantee in default of this Grant Agreement and suspend or terminate the Grant Agreement pursuant to Section 5.6.

**B. General Covenants.** In connection with the execution and delivery of this Agreement, the Grantee makes the following covenants to the Department, which are in addition to any specific covenants contained in this Agreement:

- (1) that it will use grant funds only for the purposes set forth in the Budget and Scope of Work, Parts I and III, respectively, of this Agreement;
- (2) that all warranties and representations made by the Grantee in this Agreement shall be true, accurate and complete for the term of the Agreement;
- (3) that it shall be subject to, obey and adhere to any and all federal, state and local laws, statutes, ordinances, rules, regulations and executive orders as are now or may be in effect during the term of this Agreement which may be applicable to the Grantee;
- (4) that it shall remain solvent and able to pay its debts as they mature. In the event of bankruptcy filing by the Grantee, voluntary or involuntary, the Department may decline to make any further payment, which may otherwise be required under this Agreement;

- (5) that it shall immediately notify the Department of any and all events or actions which may materially adversely affect its ability to carry on its operations or perform any or all of its obligations under this Agreement; and
- (6) that it shall not enter into any other agreement or transaction which would conflict with the performance of its duties hereunder.

## **5.2 SCOPE OF WORK**

In consideration for the grant funds to be provided by the Department, the Grantee agrees to perform the Project described in Part III (Scope of Work) hereof, in accordance with the provisions of Part I (Budget) hereof, and to prepare and submit to the Department the reports and other deliverables described in this Agreement.

## **5.3 APPROPRIATION; NONAPPROPRIATION/INSUFFICIENT APPROPRIATION; REDUCED FUNDING SOURCES/REVENUES**

- A. Appropriation.** The Grantee is hereby given actual knowledge that pursuant to the State Finance Act, 30 ILCS 105/30, payments under this grant are contingent upon the existence of a valid appropriation therefore and that no officer shall contract any indebtedness on behalf of the State, or assume to bind the State in an amount in excess of the money appropriated, unless expressly authorized by law.
- B. Non-appropriation/Insufficient Appropriation.** Payments pursuant to this Agreement are subject to the availability of applicable federal and/or State funding from the Department and their appropriation and authorized expenditures under State law. The Department shall use its best efforts to secure sufficient appropriations to fund this Agreement. However, the Department's obligations hereunder shall cease immediately, without penalty or further payment being required, if the Illinois General Assembly or federal funding source fails to make an appropriation sufficient to pay such obligation. The Department, at its sole discretion, shall determine whether amounts appropriated are sufficient to continue its obligations under this Agreement. Termination resulting from non-appropriation or insufficient appropriation shall be in accordance with Section 5.6A(1) hereof. Any grant is void by operation of law if the Department fails to obtain the requisite appropriation to pay the grant in any year in which this Agreement is in effect.

- C. Reduced Funding Sources/Revenues.** The Department reserves the right to reduce the amount to be paid to Grantee under this Agreement if the Department determines that it is in the best interest of the State of Illinois to reduce its obligation under this Agreement as a result of the occurrence of any of the following events during the term of the Agreement: (i) receipts from revenues which provide the funding for this Agreement either fall significantly short of anticipated levels, or significantly decrease, or (ii) other sources (external grants, contracts, awards, etc.) providing funds for this Agreement are decreased or withdrawn. If such an event occurs, the Department will notify the Grantee as soon as possible. If the Department and Grantee are able to agree on a reduced compensation amount and a corresponding reduced scope of services, the parties shall execute a grant modification so stating. If the Department and Grantee are unable to agree on the reduced compensation and reduced scope of services, the Department shall terminate the Grant in accordance with the provisions of Section 5.6A(2) herein.

#### **5.4 RECORDS RETENTION AND ACCESS TO RECORDS; PROJECT CLOSE-OUT; ACCOUNTING; AND AUDIT REQUIREMENTS**

- A. Records Retention.** The Grantee is accountable for all funds received under this Agreement and shall maintain, for a minimum of three (3) years following the later of the expiration or termination of this Agreement, unless the Department notifies the Grantee that a longer period prior to the expiration of three years is required, adequate books, records, and supporting documents, including digital and electronic data, to verify the amount, recipients and uses of all disbursements of funds passing in conjunction with this Agreement. This Agreement and all books, records and supporting documents related hereto shall be available for inspection and audit by the Department, the Office of Inspector General, the Auditor General of the State of Illinois, or any of their duly authorized representatives, and the Grantee agrees to cooperate fully with any audit conducted by the Auditor General or the Department. Grantee agrees to provide full access to all relevant materials and to provide copies of same upon request. Failure to maintain books, records and supporting documents required by this Section 5.4 shall establish a presumption in favor of the Department for the recovery of any funds paid by the Department under this Agreement for which adequate books, records and supporting documentation are not available to support their purported disbursement.

If any of the services to be performed under this Agreement are subcontracted and/or if subgrants are issued for the expenditure of funds provided under this Agreement, the Grantee shall include in all such subcontracts and subgrants, a provision that the Department, the Office of Inspector General, and the Auditor General of the State of Illinois, or any of

their duly authorized representatives, will have full access to and the right to examine any pertinent books, documents, papers and records of any such subcontractor or subgrantee involving transactions related to this Agreement for a period of three (3) years from the later of the expiration or termination of this Agreement, and any such subcontractor shall be governed by the same requirements to which the Grantee is subject under this Agreement.

**B. Grant Close-out**

- (1) Grant Close-out Report. In addition to any other reporting requirements specified in this Agreement, the Grantee shall complete and submit a final Grant Close-out Report on forms provided by the Department, within time limits established by the Department, after the expiration or termination of this Agreement. The Grantee must report on the expenditure of grant funds provided by the State, and if applicable, the Grantee's required matching funds. The Grantee is responsible for taking the necessary steps to correct any deficiencies disclosed by such Grant Close-out Report, including such action as the Department, based on its review of the Grant Close-out Report, may direct.
- (2) Grant Refunds. In accordance with the Illinois Grant Funds Recovery Act, 30 ILCS 705/1, *et seq.*, the Grantee must, within 45 days of the earlier of the ending date specified in the Notice of Grant Award or effective date of a termination of this Agreement, refund to the Department, any balance of funds, which is not spent or not obligated as of said date.

**C. Audit Requirements.** If required by Part II of this Grant Agreement, the Grantee shall be required to have an audit conducted in accordance with the following terms:

- (1) Federally Funded Grants.
  - a. Applicable Federal Requirements. If the Grantee is required to have an audit conducted pursuant to the Single Audit Act of 1984, as amended in 1996 ("Single Audit Act") and by the Office of Management and Budget Circular A-133 ("OMB Circular A-133"), then the audit shall be performed in accordance with these provisions.
  - b. Grantee Shall Furnish Department with Copy of Audit. When the Grantee has an audit conducted pursuant to the requirements of the Single Audit Act and OMB Circular A-133, and an audit report is produced pursuant to such federal requirements, the Grantee shall provide the Department with a copy of such audit report, except in

cases where the Grantee is not required by the Single Audit Act or OMB Circular A-133 to distribute a copy of such audit report to the Department.

- c. Grantee To Send Department Copy of Audit Report or Reporting Package within Specified Time Period. The Grantee shall send a copy of the audit report, the data collection form and the appropriate reporting package, as provided for in the Single Audit Act and OMB Circular A-133, to the Department within 30 days of the Grantee's receipt of such audit report, but in no event later than nine (9) months following the end of the period for which the audit was performed. The Grantee shall send the audit report to the Department at the following address:

Illinois Department of Commerce and Economic  
Opportunity  
Division of Audits  
620 East Adams Street  
Springfield, IL 62701

(2) State Funded Grants

a. State Audit Requirements

- (i) The audit shall be conducted by a certified public accountant that is licensed by the State of Illinois to conduct an audit in accordance with Generally Accepted Auditing Standards.
- (ii) Grant funds shall be included in the Grantee's annual audit, unless the Department authorizes the Grantee to have a grant-specific audit conducted.
- (iii) Upon completion of an audit, an audit report shall be issued and the Grantee shall provide the Department with a copy of such audit report.
- (iv) The Grantee shall provide the Department with a copy of an audit report within 30 days of the Grantee's receipt of such audit report, but in no event later than nine (9) months following the end of the period for which the audit was performed. The Grantee shall send the audit report to the Department at the following address:

Illinois Department of Commerce and Economic  
Opportunity  
Division of Audits  
620 East Adams Street  
Springfield, IL 62701

**5.5 DEFAULT AND REMEDIES.** The occurrence of any of the following events, during the grant term, shall constitute a default:

- (a) Grantee shall fail to observe or perform any covenant or agreement contained in this Agreement, including the Exhibits hereto;
- (b) Any representation, warranty, certificate or statement made by the Grantee in this Agreement, including the Exhibits hereto, or in any certificate, report, financial statement or other document delivered pursuant to this Agreement shall prove to have been incorrect when made in any material respect;
- (c) Grantee shall commence a voluntary case or other proceeding seeking liquidation, reorganization or other relief with respect to itself or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its property, or shall consent to any such relief or to the appointment of or taking possession by any such official in an involuntary case or other proceeding commenced against it, or shall make a general assignment for the benefit of creditors, or shall fail generally to pay its debts as they become due, or shall take any corporate action to authorize any of the foregoing;
- (d) An involuntary case or other proceeding shall be commenced against the Grantee seeking liquidation, reorganization or other relief with respect to it or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its property, and such involuntary case or other proceedings shall remain undismissed and unstayed for a period of 60 days; or an order for relief shall be entered against the Grantee under the federal bankruptcy laws as now or hereby after in effect;
- (e) The Grantee permanently ceases the conduct of active trade or business at the location specified in Part III, Scope of Work for any reason, including, but not limited to, fire or other casualty;
- (f) Company fails to provide the Company Contribution, if applicable, as identified in Part III, Scope of Work;

- (g) Grantee defaults on a loan from a third party. Grantee shall provide the Department with immediate notice upon making a determination that it will default on a loan.

Grantee shall have 60 days from the date Department notifies it of the occurrence of a default to cure the default to Department's satisfaction. Grantee's failure to cure, or to initiate a cure which is satisfactory to the Department, shall be a sufficient basis for the Department to terminate this Agreement and to direct Grantee to refund all funds disbursed to it by the Department within 30 days of receipt of the notice of termination.

Grantee shall be responsible for the payment of interest at a rate equal to 12% per annum for any amount of the grant funds which it has not refunded to the Department beginning 30 days from the date the termination notice is sent by the Department and continuing to the date that all grant funds are refunded by Grantee or recovered through other legal processes available to the Department.

## **5.6 TERMINATION; SUSPENSION**

**A.** This Agreement may be terminated as follows:

- (1) Non-appropriation, Insufficient Appropriation. In the event of non-appropriation or insufficient appropriation as described in Section 5.3B above, Grantee shall be paid for non-cancelable, allowable expenditures incurred in the performance of authorized services under this Agreement prior to the effective date of termination which shall be the date stated in the written termination notice provided to Grantee. The Department shall provide such notice to Grantee as soon as possible after it becomes aware of such non-appropriation or insufficient appropriation. Any refunds due the Department shall be submitted in accordance with the provisions of Section 5.4B(2) hereof.
- (2) Reduced Funding Sources/Revenues. In the event the parties are unable to agree on a reduced amount of compensation and scope of services necessitated due to a reduction in revenues or other funding sources for this Agreement as described in Section 5.3C above, Grantee shall be paid for non-cancelable, allowable expenditures incurred in the performance of authorized services under this Agreement prior to the effective date of termination which shall be the date stated in the written termination notice provided to Grantee. Any refunds due the Department shall be submitted in accordance with the provisions of Section 5.4B(2) hereof.
- (3) For Cause. If the Department determines that the Grantee has failed to comply with any of the covenants, terms, conditions or provisions of this Agreement, or any other application, proposal or grant award

executed by the Department and the Grantee, including any applicable rules or regulations, or has made a false representation or warranty in connection with the receipt of the grant, the Department may terminate this Agreement in whole or in part at any time before the expiration date of this Agreement. The Department shall notify the Grantee in writing of the reasons for the termination and the effective date of the termination. Grantee shall not incur any costs after the effective date of the termination. Payments made to the Grantee or recovery by the Department shall be in accord with the legal rights and liabilities of the parties.

In the event of termination for cause, Grantee shall also be subject to any other applicable provisions specified elsewhere in this Agreement.

Termination for cause may render the Grantee ineligible for consideration for future grants from the Department for a period not to exceed two (2) years.

- (4) For Convenience. The Grantee acknowledges that this grant was made by the Department based on its determination that the activities to be funded under this Agreement are in furtherance of either the Department's statutory requirements or its program objectives. The Grantee further acknowledges that the Department may unilaterally terminate this Agreement based on its good faith determination that the continued expenditure of funds under this Agreement is no longer in furtherance of said statutory requirements or program objectives. Termination for convenience shall be effective upon delivery of notice to Grantee pursuant to Section 5.11F hereof. The Grantee shall not incur new obligations after the effective date of the termination, and shall cancel as many outstanding obligations as possible. The Department shall allow full credit to the Grantee for properly incurred expenditures made in connection with the Grant in accordance with the provisions of Part I (Budget) and Part III (Scope of Work). Grant refunds shall be submitted in accordance with the provisions of Section 5.4B(2) hereof.

- B. Suspension.** If the Grantee fails to comply with the specific conditions and/or general terms and conditions of this Agreement, the Department may, upon written notice to the Grantee, suspend this Agreement, withhold further payments and prohibit the Grantee from incurring additional obligations of grant funds, pending corrective action by the Grantee or a decision to terminate this Agreement. Department may determine to allow such necessary and proper costs, which the Grantee could not reasonably avoid during the period of suspension provided that the Department agrees that such costs were necessary and reasonable and incurred in accordance with the provisions of this Agreement.

## 5.7 INDEMNIFICATION.

- A. Non-Governmental Entities.** The Grantee agrees to assume all risk of loss and to indemnify and hold the State, its officers, agents and employees, harmless from and against any and all liabilities, demands, claims, suits, losses, damages, causes of action, fines or judgments including costs, attorneys' and witnesses' fees, and expenses incident thereto, relating to bodily injuries to persons (including death) and for loss of, damage to, or destruction of real and/or tangible personal property (including property of the State) resulting from the negligence or misconduct of Grantee, its employees, agents, or subcontractors or subgrantees in the performance of this Agreement. Grantee shall do nothing to prejudice the State's right to recover against third parties for any loss, destruction or damage to State property and shall, at the State's request and expense, furnish to the State reasonable assistance and cooperation including assistance in the prosecution of suit and the execution of instruments of assignment in favor of the State in obtaining recovery.

The Grantee shall, at its expense, defend the State against all claims asserted by any person that anything provided by Grantee infringes a patent, copyright, trade secret or other intellectual property right and shall, without limitation, pay the costs, damages and attorneys' fees awarded against the State in any such action, or pay any settlement of such action or claim. Each party agrees to notify the other promptly of any matters to which this provision may apply and to cooperate with each other in connection with such defense or settlement.

- B. Governmental Entities.** In the event that the Grantee is a Governmental Entity, it will indemnify and hold harmless the Department as set out herein to the extent authorized by Federal and/or State constitutions(s) and/or laws.

## 5.8 MODIFICATION BY OPERATION OF LAW; BUDGET MODIFICATIONS; DISCRETIONARY MODIFICATIONS

- A. Modifications by Operation of Law.** This Agreement is subject to such modifications as the Department determines may be required by changes in Federal or State law or regulations applicable to this Agreement. Any such required modification shall be incorporated into and become part of this Agreement as if fully set forth herein. The Department shall timely notify the Grantee of any pending implementation of or proposed amendment to such regulations of which it has notice.

- B. Budget Modifications.** Budget modifications shall be made in accordance with any applicable provisions as specified elsewhere in this Agreement.
- C. Discretionary Modifications.** If either the Department or the Grantee wishes to modify the terms of this Agreement other than as set forth in Sections A and B above, written notice of the proposed modification must be given to the other party. Modifications will only take effect when agreed to in writing by both the Department and the Grantee. However, if the Department notifies the Grantee in writing of a proposed modification, and the Grantee fails to respond to that notification, in writing, within thirty (30) days, the proposed modification will be deemed to have been approved by the Grantee. In making an objection to the proposed modification, the Grantee shall specify the reasons for the objection and the Department shall consider those objections when evaluating whether to follow through with the proposed modification. The Department's notice to the Grantee shall contain the Grantee name, Grant number, modification number, purpose of the revision and signature of the Department's Director.
- D. Unilateral Modifications.** The parties agree that the Department may unilaterally modify this Agreement without prior approval of the Grantee when the modification is initiated by the Department for the sole purpose of increasing the Grantee's funding allocation as additional funds become available for the grant during the program year covered by the term of this Agreement. The parties further agree that the thirty (30) day period for objection described in Section 5.8C above does not apply to the unilateral modification authority described in Section 5.8D.

**5.9 CONFLICT OF INTEREST; INTEREST OF PUBLIC OFFICIALS/EMPLOYEES; BONUS/COMMISSION PROHIBITED; HIRING OF STATE EMPLOYEES PROHIBITED; DUE DILIGENCE IN EXPENDITURE OF FUNDS**

- A. Conflict of Interest.** The Grantee shall establish safeguards to prohibit officers, directors, agents, employees and family members from using positions of employment for a purpose that is, or gives the appearance of, being motivated by a desire for a private gain for themselves or others, particularly those with whom they have family business or other ties. Safeguards, evidenced by rules or bylaws, shall be established to prohibit persons from engaging in actions, which create or which appear to create a conflict of interest as described herein.
- B. Interest of Public Officials/Employees.**
  - (1) Governmental Entity. If the Grantee is a governmental entity, the Grantee certifies that no officer or employee of the Grantee and no

member of its governing body and no other public official of the locality in which the program objectives will be carried out who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of such objectives shall participate in any decision relating to any contract negotiated under a program grant which affects his/her personal interest or the interest of any corporation, partnership or association in which he/she is directly or indirectly interested, or has any financial interest, direct or indirect, in such contract or in the work to be performed under such contract.

- (2) Nongovernmental Entity. If the Grantee is a nongovernmental entity, such a financial interest is permissible provided full disclosure of said interest is made to the Department in advance of any decisions relative to the award of a contract giving rise to such interest and further provided that the officer, employee, or member of the governing body so affected shall remove himself or herself from the room during any discussion, deliberation and voting in connection with the awarding of such a contract and provided further that the Department determines, in writing, that the best interest of the State outweighs the conflict of interest issue.

Violations of this Section 5.9 may result in suspension or termination of this Agreement, and recovery of grant funds provided hereunder. Violators may also be criminally liable under other applicable State and/or Federal laws and subject to actions up to and including felony prosecution.

- C. Bonus or Commission Prohibited.** The Grantee shall not pay any bonus or commission for the purpose of obtaining the grant awarded under this Agreement.
- D. Hiring State Employees Prohibited.** No State officer or employee may be hired to perform services under this Agreement, or be paid with funds derived directly or indirectly through this grant without the written approval of the Department.
- E. Due Diligence in Expenditure of Funds.** Grantee shall ensure that grant funds are expended in accordance with the following principles: (i) grant expenditures should be made in accordance with generally accepted sound, business practices, arms-length bargaining, applicable federal and state laws and regulations, and the terms and conditions of this Agreement; (ii) grant expenditures should not exceed the amount which would be incurred by a prudent person under the circumstances prevailing at the time the decision is made to incur the costs; and (iii) grant expenditures should be consistent with generally accepted accounting principles (GAAP).

## 5.10 APPLICABLE STATUTES

- A. **Grantee Responsibility.** All applicable Federal, State and local laws, rules and regulations governing the performance required by Grantee shall apply to this Agreement and will be deemed to be included in this Agreement the same as though written herein in full. Grantee is responsible for ensuring compliance with all applicable laws, rules and regulations, including, but not limited to those specifically referenced herein. Except where expressly required by applicable laws and regulations, the Department shall not be responsible for monitoring Grantee's compliance.
- B. **Land Trust/Beneficial Interest Disclosure Act ( 765 ILCS 405/2.1).** No grant award funds shall be paid to any trustee of a land trust, or any beneficiary or beneficiaries of a land trust, for any purpose relating to the land, which is the subject of such trust, any interest in such land, improvements to such land or use of such land unless an affidavit is first filed with the Department identifying each beneficiary of the land trust by name and address and defining such interest therein.
- C. **Historic Preservation Act (20 ILCS 3420/1 et seq.).** The Grantee will not expend funds under this Agreement which result in the destruction, alteration, renovation, transfer or sale, or utilization of a historic property, structure or structures, or in the introduction of visual, audible or atmospheric elements to a historic property, structure or structures, which will result in the change in the character or use of any historic property, except as approved by the Illinois Historic Preservation Agency.
- D. **State of Illinois Discrimination Laws (775 ILCS 5/1-101 et seq.).** In carrying out the performance required under this Agreement, the Grantee shall comply with all applicable provisions of the Illinois Human Rights Act, and rules and regulations promulgated by the Illinois Department of Human Rights, prohibiting unlawful discrimination in employment. Grantee's failure to comply with all applicable provisions of the Illinois Human Rights Act, or applicable rules and regulations promulgated thereunder, may result in a determination that Grantee is ineligible for future contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations, and this Agreement may be canceled or voided in whole or in part, and such other sanctions or penalties may be imposed or remedies invoked as provided by statute or regulation.
- E. **Drugfree Workplace Act (30 ILCS 580/1 et seq.).** Grantee will make the certification required in this Agreement and will comply with all of the provisions of the Drugfree Workplace Act that are applicable to the Grantee. False certification or violation of the requirements of the Drugfree Workplace Act may result in sanctions including, but not limited to, suspension of grant payments, termination of this Agreement and debarment

of contracting or grant opportunities with the State for at least one (1) year but not more than five (5) years.

- F. Freedom of Information Act (5 ILCS 140/1 et seq.).** Applications, programmatic reports and other information obtained by the Department under this Agreement shall be administered pursuant to the Freedom of Information Act.
- G. Prevailing Wage Act (820 ILCS 130/0.01 et seq.).** All projects for the construction of fixed works which are financed in whole or in part with funds provided by this Agreement shall be subject to the Prevailing Wage Act (820 ILCS 130/0.01) unless the provisions of that Act exempt its application. In the construction of the project, the Grantee shall comply with the requirements of the Prevailing Wage Act, including, but not limited to, inserting into all contracts for such construction a stipulation to the effect that not less than the prevailing rate of wages as applicable to the project shall be paid to all laborers, workers and mechanics performing work under the contract and requiring all bonds of contractors to include a provision as will guarantee the faithful performance of such prevailing wage clause as provided by contract.
- H. Victims Economic Security and Safety Act (P.A. 093-0591).** If the Grantee has 50 or more employees, it may not discharge or discriminate against an employee who is a victim of domestic violence, or who has a family or household member who is a victim of domestic violence, for taking up to a total of twelve (12) work weeks of leave from work during any twelve month period to address the domestic violence, pursuant to the Victims Economic Security and Safety Act. The Grantee is not required to provide paid leave under the Victims Economic Security and Safety Act, but may not suspend group health plan benefits during the leave period. Any failure on behalf of the Grantee to comply with all applicable provisions of the Victims Economic Security and Safety Act, or applicable rules and regulations promulgated thereunder, may result in a determination that the Grantee is ineligible for future contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations, and this Agreement may be cancelled or voided in whole or in part, and such other sanctions or penalties may be imposed or remedies invoked, as provided by Statute or regulation.
- I. Equal Pay Act of 2003 (P.A. 093-0006).** If the Grantee has four or more employees, it is prohibited by the Equal Pay Act of 2003 from paying unequal wages to men and women for doing the same or substantially similar work. Further, the Grantee is prohibited by the Equal Pay Act of 2003 from remedying violations of the Act by reducing the wages of other employees or discriminating against any employee exercising his/her rights under this Act. Any failure on behalf of the Grantee to comply with all

applicable provisions of the Equal Pay Act of 2003, or applicable rules and regulations promulgated thereunder, may result in a determination that the Grantee is ineligible for future contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations, and this Agreement may be cancelled or voided in whole or in part, and such other sanctions or penalties may be imposed or remedies invoked, as provided by Statute or regulation.

- J. Steel Products Procurement Act (30 ILCS 565 et al).** The grantee, if applicable, hereby certifies that any steel products used or supplied in accordance with this grant for a public works project shall be manufactured or produced in the United States per the requirements of the Steel Products Procurement Act (30 ILCS 565 et al).

## **5.11 MISCELLANEOUS PROVISIONS**

- A. Independence of Grantee Personnel.** All technical, clerical, and other personnel necessary for the performance required by this Agreement shall be employed by or contracted with Grantee, and shall in all respects be subject to the rules and regulations of Grantee governing its employees. Neither Grantee nor its personnel shall be considered to be the agents or employees of the Department.
- B. Grantor Authority.** The Department and its payroll employees, when acting pursuant to this Agreement, are acting as State officials in their official capacity and not personally or as the agents of others.
- C. Governing Law.** This Grant is awarded in the State of Illinois for execution within the State of Illinois. This Agreement shall be governed by and construed according to Illinois law.
- D. Worker's Compensation Insurance, Social Security, Retirement and Health Insurance Benefits, and Taxes.** The Grantee shall provide Worker's Compensation insurance where the same is required and shall accept full responsibility for the payment of unemployment insurance, premiums for Workers' Compensation, Social Security and retirement and health insurance benefits, as well as all income tax deduction and any other taxes or payroll deductions required by law for its employees who are performing services specified by this Agreement.
- E. Delivery of Grantee Payments.** Payment to the Grantee under this Agreement shall be made payable in the name of the Grantee and sent to the person and place specified in the Notice of Grant Award. The Grantee may change the person to whom payments are sent, or the place to which payments are sent by written notice to the Department signed by the

Grantee, that complies with the requirements of Section 5.11F below. No such change or payment notice shall be binding upon the Department until ten (10) business days after actual receipt.

- F. Notice.** Any notice, demand, or communication required or permitted to be given hereunder shall be given in writing at the addresses set forth in the Notice of Grant Award by any of the following means: (a) personal service, (b) electronic communication, whether by telex, telegram or telecopy, (c) overnight courier, or (d) registered or certified first class mail, postage prepaid, return receipt requested. Any notice, demand or communication given pursuant to either clause (a) or (b) hereof shall be deemed received upon such personal service or upon dispatch by electronic means, respectively. Any notice, demand or communication given pursuant to clause (c) shall be deemed received on the day immediately following deposit with the overnight courier. Any notice, demand or communication sent pursuant to clause (d) shall be deemed received five (5) business days after mailing. The parties, by notice given hereunder, may designate any further or different addresses to which subsequent notices, demands or communications shall be given.

The Grantee acknowledges and agrees that its address set forth in the Notice of Grant Award is its current address and shall be considered its last known address for purposes of receiving any and all notice(s) required under this Grant Agreement. The Grantee further acknowledges and agrees that the Department is justified in relying upon the address information furnished to it by the Grantee in absence of notice to the contrary. The Grantee also acknowledges and agrees that it has the burden of notifying the Department of its current/last known address. In the event that the Grantee changes its current address, it shall contact its Program Manager and notify him/her of said change of address and a formal modification will be executed.

- G. Waivers.** A waiver of any condition of this Agreement must be requested in writing. No waiver of any condition of this Agreement may be effective unless in writing from and signed by the Director of the Department.
- H. Assignment.** The benefits of this Agreement and the rights, duties and responsibilities of the Grantee under this Agreement may not be assigned (in whole or in part) except with the express written approval of the Department acting through its Director. Any assignment by the Grantee in violation of this provision renders this Agreement voidable by the Department.
- I. Severability Clause.** If any provision under this Agreement or its application to any person or circumstances is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision or its application of this Agreement, which can be given effect without the invalid provision or application.

- J. Integration Clause.** This Agreement, with attachments, as written, is the full and complete agreement between the parties and there are no oral agreements or understandings between the parties other than what has been reduced to writing herein.
- K. Comptroller Filing Notice.** The Grantee expressly understands that whenever applicable, a copy of this Agreement and any modification, cancellation or renewal is required to be filed by the Department with the State Comptroller.
- L. Subcontract and Grants.** The Grantee's services, duties and responsibilities specified herein shall not be subcontracted or subgranted by the Grantee without prior written approval of the Department, unless such subcontracts or subgrants are provided for elsewhere in this Agreement. Any subcontracts or subgrants shall be subject to, and conform with, all applicable State and Federal laws, and shall specifically provide that subcontractors or subgrantees are subject to all of the terms and conditions of this Agreement. For the Department to approve the use of any subcontract or subgrant, the Grantee must employ an impartial and reasonable selection process.
- M. Attorney Fees and Costs.** If the Department is the prevailing party in any proceeding to enforce the terms of this Agreement, the Department has the right to recover reasonable attorney fees, costs and expenses associated with recovering the funds.

**PART VI  
STATE OF ILLINOIS REQUIRED  
CERTIFICATIONS**

**The Grantee makes the following certifications as a condition of this Agreement. These certifications are required by State statute and are in addition to any certifications required by any Federal funding source as set forth in this Agreement. Grantee's execution of this Agreement shall serve as its attestation that the certifications made herein are true and correct.**

- 6.1 COMPLIANCE WITH APPLICABLE LAW.** The Grantee certifies that it shall comply with all applicable provisions of Federal, State and local law in the performance of its obligations pursuant to this Agreement.
- 6.2 CONFLICT OF INTEREST.** The Grantee certifies that it has no public or private interest, direct or indirect, and shall not acquire directly or indirectly any such interest which does or may conflict in any manner with the performance of Grantee's services and obligations under this Agreement.
- 6.3 BID-RIGGING/BID-ROTATING.** The Grantee certifies that it has not been barred from contracting with a unit of State or local government as a result of a violation of Section 33E-3 or 33E-4 of the Criminal Code of 1961 (720 ILCS 5/33 E-3 and 5/33 E-4).
- 6.4 DEFAULT ON EDUCATIONAL LOAN.** The Grantee certifies that this Agreement is not in violation of the Educational Loan Default Act (5 ILCS 385/3) prohibiting certain contracts to individuals who are in default on an educational loan.
- 6.5 AMERICANS WITH DISABILITIES ACT.** The Americans with Disabilities Act (ADA) (42 U.S.C. 12101 et. seq.) and the regulations thereunder (28 CFR 35.130) prohibit discrimination against persons with disabilities by the State, whether directly or through contractual arrangements, in the provision of any aid, benefit or service. As a condition of receiving this grant, the Grantee certifies that services, programs and activities provided under this Agreement are, and will continue to be, in compliance with the ADA.
- 6.6 DRUGFREE WORKPLACE ACT.** The Grantee certifies that:
- A)  It is a Corporation, Partnership, or other entity (other than an individual) **with 24 or fewer employees** at the time of execution of this Agreement.
  - B)  That the purpose of this grant is to fund solid waste reduction.
  - C)  It is a Corporation, Partnership, or other entity (other than an individual) **with 25 or more employees** at the time of execution of this Agreement, or
  - D)  That it is an individual.

If Option "A" or "B" is checked this Agreement is not subject to the requirements of the Act.

If Option "C" or "D" is checked and the amount of this grant is five thousand dollars (\$5,000.00) or more, the Grantee is notified that the Drugfree Workplace Act (30 ILCS 580/1 et seq.) is applicable to this Agreement, and the Grantee must comply with the terms of said Act, as set forth below:

Grantee will provide a drugfree workplace by:

- (a) Publishing a statement:
  - (i) Notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance, including cannabis, is prohibited in the Grantee's workplace.
  - (ii) Specifying the actions that will be taken against employees for violations of such prohibition.
  - (iii) Notifying the employee that, as a condition of employment on such grant, the employee will:
    - (A) abide by the terms of the statement; and
    - (B) notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction.
- (b) Establishing a drug free awareness program to inform employees about:
  - (i) the dangers of drug abuse in the workplace;
  - (ii) the Grantee's policy of maintaining a drug free workplace;
  - (iii) any available drug counseling, rehabilitation and employee assistance programs; and
  - (iv) the penalties that may be imposed upon an employee for drug violations.
- (c) Providing a copy of the statement required by subparagraph (a) to each employee engaged in the performance of the grant and to post the statement in a prominent place in the workplace.

- (d) Notifying the granting agency within ten (10) days after receiving notice, under part (B) of paragraph (iii) of subsection (a) above, from an employee or otherwise receiving actual notice of such conviction.
- (e) Imposing a sanction on, or requiring the satisfactory participation in, a drug abuse assistance or rehabilitation program by any employee who is so convicted, as required by Section 5 of the Drugfree Workplace Act, 30 ILCS 580/5.
- (f) Assisting employees in selecting a course of action in the event drug counseling, treatment and rehabilitation are required and indicating that a trained referral team is in place.
- (g) Making a good faith effort to continue to maintain a drugfree workplace through implementation of the Drugfree Workplace Act, 30 ILCS 580/5.

If Grantee is an individual, it certifies that it will not engage in the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance in the performance of this Agreement.

**6.7 ANTI-BRIBERY.** The Grantee certifies that neither it nor its employees have been convicted of bribing or attempting to bribe an officer or employee of the State of Illinois, nor has Grantee or any of its employees made an admission of guilt of such conduct which is a matter of record as defined in the Illinois Procurement Code (30 ILCS 500/50-5).

**6.8 DISCRIMINATION/ILLINOIS HUMAN RIGHTS ACT.** The Grantee certifies (i) that it will not commit unlawful discrimination in employment in Illinois as that term is defined in Article 2 of said Act; (ii) that it will comply with the provisions of Article 5 of the Act regarding equal employment opportunities and affirmative action; and, (iii) that it will comply with policies and procedures established by the Department of Human Rights under Article 7 of the Act regarding equal employment opportunities and affirmative action.

The Grantee further certifies that, if applicable, it will comply with "An Act to prohibit discrimination and intimidation on account of race, creed, color, sex, religion, physical or mental handicap unrelated to ability or national origin in employment under contracts for public buildings or public works." (775 ILCS 10/0.01 *et seq.*)

**6.9 SEXUAL HARASSMENT.** The Grantee certifies that it has written sexual harassment policies that shall include, at a minimum, the following information: (i) the illegality of sexual harassment; (ii) the definition of sexual harassment under State law; (iii) a description of sexual harassment, utilizing examples; (iv) the Grantee's internal complaint process including penalties; (v) the legal

recourse, investigative and complaint process available through the Department of Human Rights and the Human Rights Commission; (vi) directions on how to contact the Department and Commission; and (vii) protection against retaliation as provided by Section 6-101 of the Illinois Human Rights Act (775 ILCS 5/2-105 (B)(5)). A copy of the policies shall be provided to the Department upon request.

- 6.10 INTERNATIONAL ANTI-BOYCOTT CERTIFICATION.** The Grantee hereby certifies that neither the Grantee nor any substantially owned affiliate company of the Grantee is participating or will participate in an international boycott, as defined by the provisions of the U.S. Export Administration Act of 1979, or as defined by the regulations of the U.S. Department of Commerce, promulgated pursuant to that Act (30 ILCS 582/1 *et seq.*).
- 6.11 FEDERAL, STATE AND LOCAL LAWS; TAX LIABILITIES; STATE AGENCY DELINQUENCIES.** The Grantee is required to comply with all federal, state and local laws, including but not limited to the filing of any and all applicable tax returns. In the event that a Grantee is delinquent in filing and/or paying any federal, state and/or local taxes, the Department shall disburse grant funds only if the Grantee enters into an installment payment agreement with said tax authority and remains in good standing therewith. Grantee is required to tender a copy of any such installment payment agreement to the Department. In no event may Grantee utilize grant funds to discharge outstanding tax liabilities or other debts owed to any governmental unit. **The execution of this Grant Agreement by the Grantee is its certification that (i) it is current as to the filing and payment of any federal, state and/or local taxes applicable to Grantee; and (ii) it is not delinquent in its payment of moneys owed to any federal, state, or local unit of government.**
- 6.12 PROHIBITION OF GOODS DERIVED FROM CHILD LABOR.** The Grantee certifies, in accordance with Public Act 94-0264, that no foreign-made equipment, materials, or supplies furnished to the State in connection with this Agreement have been produced in whole or in part by the labor of any child under the age of 12.

**Attachment A**

## CERTIFICATION REGARDING LOBBYING

### Certification for Contracts, Grants, Loans, and Cooperative Agreements

By accepting this grant, the signee hereby certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The signer shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S.C. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

\_\_\_\_\_  
Grantee/Contractor Organization

\_\_\_\_\_  
Grant Number

\_\_\_\_\_  
Name of Certifying Official

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

## DISCLOSURE OF LOBBYING ACTIVITIES

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352

Approved by OMB

0348-0046

(See reverse for public burden disclosure.)

<b>1. Type of Federal Action:</b> <input type="checkbox"/> a. contract <input type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance	<b>2. Status of Federal Action:</b> <input type="checkbox"/> a. bid/offer/application <input type="checkbox"/> b. initial award <input type="checkbox"/> c. post-award	<b>3. Report Type:</b> <input type="checkbox"/> a. initial filing <input type="checkbox"/> b. material change <b>For Material Change Only:</b> year _____ quarter _____ date of last report _____
<b>4. Name and Address of Reporting Entity:</b> <input type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier _____, if known:  Congressional District, if known:	<b>5. If Reporting Entity in No. 4 is a Subawardee, Enter Name and Address of Prime:</b>   Congressional District, if known:	
<b>6. Federal Department/Agency:</b>	<b>7. Federal Program Name/Description:</b>  CFDA Number, if applicable: _____	
<b>8. Federal Action Number, if known:</b>	<b>9. Award Amount, if known:</b> \$ _____	
<b>10. a. Name and Address of Lobbying Registrant</b> (if individual, last name, first name, MI):	<b>b. Individuals Performing Services</b> (including address if different from No. 10a) (last name, first name, MI):	
<b>11.</b> Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.	Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____	
<b>Federal Use Only:</b>		Authorized for Local Reproduction Standard Form LLL (Rev. 7-97)

## INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.  
  
(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).
11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503.

**Attachment B**