**SAMPLE SUBAWARD AGREEMENT**

THIS SUBAWARD AGREEMENT (this “Agreement”) is entered into as of [DATE], by and between [insert grantee name], a [STATE] nonprofit corporation with principal offices at [ADDRESS] (“Recipient”), and [SUBRECIPIENT] (“Subrecipient”), a [STATE] nonprofit corporation with principal offices at [ADDRESS]. This Agreement shall govern certain activities and responsibilities to be carried out by Subrecipient on behalf of Recipient, a grantee of the [insert name of agency that awarded grant].[[1]](#footnote-0)

WHEREAS, Recipient provides [insert description of services/products provided] through its [family planning program] and has been awarded a grant to [assist in the establishment and operation of a comprehensive family planning services delivery system] with a project period of [START DATE] through [END DATE] by [insert name of agency that awarded grant, Grant No. [\_] (the “Prime Award”), pursuant to the [insert name of grant program, if any] , in a notice of award attached hereto as Exhibit A (the “Notice of Prime Award”);[[2]](#footnote-1)

WHEREAS, Recipient desires to [insert description of purpose of sub-award];

WHEREAS, Subrecipient [insert description of why the sub-award has been awarded to the sub-awardee];

WHEREAS, Recipient desires to grant a “subaward” (as defined in the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200 (the “Uniform Guidance”) of the Prime Award (the “Subaward”) to Subrecipient to [insert description of services/products to be provided] in accordance with the requirements of the Uniform Guidance and the regulations and guidelines promulgated thereunder and by [insert name of awarding agency], as well as other applicable law; and

WHEREAS, certain information required by the Uniform Guidance, [2 C.F.R. § 200.332], to be included in this Agreement with respect to the Subaward is set forth in the Subaward Data attached hereto as Exhibit B and is incorporated herein by reference.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Recipient and Subrecipient hereby agree as follows:

1. **TERM.** This Agreement shall govern the performance of the parties for the period [START DATE] (the “Effective Date”) through [END DATE], unless earlier terminated by either party in accordance with the terms of this Agreement (such period of performance, the “Agreement Term”).
2. **SCOPE OF SERVICES AND BUDGET; PRIOR APPROVAL FOR CHANGES.**
   1. Scope of Services and Budget. Subrecipient shall, in a satisfactory manner as determined by Recipient, perform all activities described in the scope of services as approved by Recipient and attached hereto as Exhibit C, as may be amended from time to time (the “Approved Services”) in accordance with the program budget as approved by Recipient and attached hereto as Exhibit D, as may be amended from time to time (the “Approved Budget”).
   2. Prior Approval for Changes. Subrecipient may not transfer allocated funds among cost categories within a budgeted program account without the prior written approval of Recipient; nor shall Subrecipient make any changes, directly or indirectly, in program design or in the Approved Services or in the Approved Budget without the prior written approval of Recipient.
3. **COMPENSATION.**
   1. Payment of Funds. Recipient agrees to reimburse[[3]](#footnote-2) Subrecipient for costs actually incurred and paid by Subrecipient in accordance with the Approved Budget attached hereto as Exhibit D and for the performance of the Approved Services under this Agreement in an amount not to exceed $[\_] (the “Total Agreement Funds”). The amount of Total Agreement Funds, however, is subject to adjustment by Recipient if a substantial change is made in the Approved Services that affects this Agreement or if this Agreement is terminated prior to the expiration of the Agreement as provided in Section 1 above. Program funds shall not be expended prior to the Effective Date, or following the earlier of the expiration or termination of this Agreement. Costs incurred shall only be as necessary and allowable to carry out the purposes and activities of the Approved Services and may not exceed the maximum limits set in the Approved Budget. Expenses charged against the Total Agreement Funds shall be incurred in accordance with [Title X], the Uniform Guidance, the Prime Award and the authorizations, restrictions and requirements contained in the Notice of Prime Award and any amendments thereto and other applicable laws, regulations, grant terms and conditions or policies.
   2. Invoices. On or before the twentieth (20th) day of each month and in any event no later than thirty (30) days after the earlier of the expiration or termination of this Agreement, Subrecipient shall submit invoices, [in a form supplied by Recipient][[4]](#footnote-3), for the most recent month ended, to Recipient, setting forth actual expenditures of Subrecipient in accordance with this Agreement. Within ten (10) working days from the date it receives such invoice, Recipient may disapprove the requested compensation. If the compensation is so disapproved, Recipient shall notify Subrecipient as to the disapproval. If payment is approved, no notice will be given.
   3. Contingency. The payment of funds to Subrecipient under the terms of this Agreement shall be contingent on the receipt of such funds by Recipient from applicable state and federal funding sources and shall be subject to Subrecipient’s continued eligibility to receive funds under the applicable provisions of state and federal laws and the Notice of Prime Award. If the amount of funds that Recipient receives from state and federal funding sources is reduced, Recipient reserves the right to reduce the amount of funds awarded under, or to terminate, this Agreement. Recipient also reserves the right to deny payment for Subrecipient’s expenditures for Approved Services where invoices and/or other reports are not submitted by the deadlines specified Sections 3(b) above and 4(d) below.
4. **FINANCIAL ACCOUNTABILITY AND GRANT ADMINISTRATION.**
   1. Financial Management. Subrecipient shall maintain a financial management system and financial records and shall administer funds received pursuant to this Agreement in accordance with all applicable federal and state requirements, including without limitation: (i) the Uniform Guidance, 2 C.F.R. Part 200; and (ii) additional regulations and guidance documents issued by [insert agency].[[5]](#footnote-4) Subrecipient shall adopt such additional financial management procedures as may from time to time be prescribed by Recipient if required by applicable laws, regulations or guidelines from its federal and state government funding sources. Subrecipient shall maintain detailed, itemized documentation and records of all income received and expenses incurred pursuant to this Agreement.
   2. Limitations on Expenditures. Subrecipient shall not be reimbursed or otherwise compensated for any expenditures incurred or services provided prior to the Effective Date, or following the earlier of the expiration or termination of this Agreement. Recipient shall only reimburse Subrecipient for documented expenditures incurred during the Agreement Term that are: (i) reasonable and necessary to carry out the services described in Exhibit C; (ii) documented by contracts or other evidence of liability consistent with established Recipient and Subrecipient procedures; and (iii) incurred in accordance with all applicable requirements for the expenditure of funds payable under this Agreement.
   3. Indirect Cost Rate. The Subaward Data attached hereto as Exhibit B contains information on Recipient’s indirect cost rate under the Notice of Prime Award. The indirect cost rate information, if any, indicated in the Approved Budget attached hereto as Exhibit D shall apply to the Subaward.
   4. Financial and Other Reports. Subrecipient shall submit to Recipient such reports and back-up data as may be required by [insert agency] or Recipient, including without limitation such reports which enable Recipient to submit its own [quarterly financial and annual programmatic reports][[6]](#footnote-5) to [insert agency] and the reports required in accordance with the following schedule:

| REPORT | DEADLINE |
| --- | --- |
| [INSERT APPLICABLE REPORT] | [INSERT APPLICABLE DEADLINE] |
|  |  |

This provision shall survive the expiration or termination of this Agreement with respect to any reports which Subrecipient is required to submit to Recipient following the expiration or termination of this Agreement.

* 1. Improper Payments. Any item of expenditure by Subrecipient under the terms of this Agreement which is found by auditors, investigators, and other authorized representatives of Recipient, [insert agency], the U.S. Government Accountability Office or the Comptroller General of the United States to be improper, unallowable, in violation of federal or state law or the terms of the Notice of Prime Award or this Agreement, or involving any fraudulent, deceptive, or misleading representations or activities of Subrecipient, shall become Subrecipient’s liability, to be paid by Subrecipient from funds other than those provided by Recipient under this Agreement or any other agreements between Recipient and Subrecipient. This provision shall survive the expiration or termination of this Agreement.
  2. Audited Financial Statements. In any fiscal year in which Subrecipient expends $1,000,000 or more in federal awards during such fiscal year, including awards received as a subrecipient, Subrecipient must comply with the federal audit requirements contained in the Uniform Guidance, including the requirement to have a single or program-specific audit. Regardless of expenditure amount, Subrecipient’s records must be available for review by Recipient and appropriate officials of [insert agency name], the U.S. Government Accountability Office and the Comptroller General of the United States, and it must still have a financial audit performed for that year by an independent Certified Public Accountant. Subrecipient shall provide Recipient with a copy of Subrecipient’s most recent audited financial statements, federal Single Audit report, if applicable (including financial statements, schedule of expenditures of federal awards, schedule of findings and questioned costs, summary of prior audit findings, and corrective action plan, if applicable), and management letter within thirty (30) days after execution of this Agreement and thereafter within nine (9) months following the end of Subrecipient’s most recently ended fiscal year.
  3. Closeout. Final payment request(s) under this Agreement must be received by Recipient no later than thirty (30) days from the earlier of the expiration date or termination date of this Agreement. No payment request will be accepted by Recipient after this date without authorization from Recipient. In consideration of the execution of this Agreement by Recipient, Subrecipient agrees that acceptance of final payment from Recipient will constitute an agreement by Subrecipient to release and forever discharge Recipient, its agents, employees, representatives, affiliates, successors and assigns from any and all claims, demands, damages, liabilities, actions, causes of action or suits of any nature whatsoever, which Subrecipient has at the time of acceptance of final payment or may thereafter have, arising out of or in any way relating to any and all injuries and damages of any kind as a result of or in any way relating to this Agreement. Subrecipient’s obligations to Recipient under this Agreement shall not terminate until all closeout requirements are completed to the satisfaction of Recipient. Such requirements shall include, without limitation, submitting final reports to Recipient and providing any closeout-related information requested by Recipient by the deadlines specified by Recipient. This provision shall survive the expiration or termination of this Agreement.

1. **COOPERATION IN MONITORING AND EVALUATION.**
   1. Recipient Responsibilities. Recipient shall monitor, evaluate and provide guidance and direction to Subrecipient in the conduct of Approved Services performed under this Agreement. Recipient has the authority to determine whether Subrecipient has spent funds in accordance with applicable laws, regulations, including the federal audit requirements and agreements and shall monitor the activities of Subrecipient to ensure that Subrecipient has met such requirements. Recipient may require Subrecipient to take corrective action if deficiencies are found.
   2. Subrecipient Responsibilities.
      1. Subrecipient shall permit Recipient to carry out monitoring and evaluation activities, including any performance measurement system required by applicable law, regulation, funding sources guidelines or by the terms and conditions of the applicable Notice of Prime Award, and Subrecipient agrees to ensure, to the greatest extent possible, the cooperation of its agents, employees and board members in such monitoring and evaluation efforts. This provision shall survive the expiration or termination of this Agreement.
      2. Subrecipient shall cooperate fully with any reviews or audits of the activities under this Agreement by authorized representatives of Recipient, [insert agency name], the U.S. Government Accountability Office or the Comptroller General of the United States and Subrecipient agrees to ensure to the extent possible the cooperation of its agents, employees and board members in any such reviews and audits. This provision shall survive the expiration or termination of this Agreement.
2. **RECORD RETENTION AND ACCESS.** Subrecipient shall maintain all records, books, papers and other documents related to its performance of Approved Services under this Agreement (including without limitation personnel, property, financial and medical records) for a period of three years following the date that Recipient makes the last payment to Subrecipient under this Agreement, or such longer period as is necessary for the resolution of any litigation, claim, negotiation, audit or other inquiry involving this Agreement. Subrecipient shall make all records, books, papers and other documents that relate to this Agreement available at all reasonable times for inspection, review and audit by the authorized representatives of Recipient, [HHS], the U.S. Government Accountability Office and the Comptroller General of the United States.
3. **INDEPENDENT CONTRACTOR RELATIONSHIP.** The relationship of Subrecipient to Recipient is that of an independent contractor and not of an employee/employer. It is expressly understood that any individual performing services under this Agreement on behalf of Subrecipient shall not be deemed to be an employee or independent contractor of Recipient, and such individual shall not be entitled to tax withholding, workers’ compensation, unemployment compensation or any employee benefits, statutory or otherwise, from Recipient. Subrecipient agrees that it is solely responsible for the reporting and payment of income, social security and other employment taxes due to the proper taxing authorities with respect to such personnel. Subrecipient agrees to indemnify, defend and hold harmless Recipient and its directors, officers, employees and agents from and against any and all costs, losses, damages, liabilities, expenses, demands and judgments, including court costs and attorney’s fees, relating to the reporting and payment of income, social security and other employment taxes and the provision of employee benefits (including but not limited to workers’ compensation, unemployment insurance and health insurance coverage or assessable payments required under the Patient Protection and Affordable Care Act, P.L.111-148) with respect to such individual performing services under this Agreement on behalf of Subrecipient. This provision shall survive the expiration or termination of this Agreement.
4. **COMPLIANCE WITH GRANT AGREEMENT AND APPLICABLE LAWS.**
   1. Compliance with Prime Award and Subaward. Subrecipient shall perform all activities funded by this Agreement in accordance with: (i) the Notice of Prime Award attached hereto as Exhibit A, including any amendments thereto; (ii) the Subaward Data attached hereto as Exhibit B, including any amendments thereto; (iii) the Approved Services attached hereto as Exhibit C, including any amendments thereto; (iv) the Approved Budget attached hereto as Exhibit D, including any amendments thereto and (v) the applicable contract provisions for non-federal entity contracts under federal awards required under the Uniform Guidance, including those attached hereto as Exhibit E (the “Required Contract Provisions”) (each of (i) – (v) above is hereby incorporated by reference into this Agreement). In addition, Subrecipient shall cooperate fully with Recipient in its efforts to comply with the requirements of the Notice of Prime Award, including any amendments thereto.
   2. Compliance with Applicable Laws. Subrecipient shall perform all activities funded by this Agreement in accordance with all applicable federal, state and local laws, including without limitation laws which regulate the use of funds allocated under the Uniform Guidance and [insert citation to awarding agency’s grant regulations]. The term “federal, state and local laws” as used in this Agreement shall mean all applicable statutes, rules, regulations, executive orders, directives or other laws, including all laws as presently in effect and as may be amended or otherwise altered during the Agreement Term, as well as all such laws which may be enacted or otherwise become effective during the Agreement Term. The term “federal, state and local laws” shall include, without limitation:[[7]](#footnote-6)

* + 1. Davis-Bacon and Related Acts. Subrecipient shall comply with the requirements under the Davis-Bacon and Related Acts (42 USC § 7614), including any prevailing wage requirements.
    2. Build America, Buy America. Subrecipient shall comply with the domestic content sourcing requirements under the Build America, Buy America provisions of the Infrastructure Investment and Jobs Act (P.L. 117-58, §§ 70911-70917).
    3. Restrictions on Lobbying. Subrecipient shall comply with the restrictions on lobbying set forth in 2 C.F.R. § 200.450.[[8]](#footnote-7) If the Subaward exceeds $100,000, Subrecipient must execute and deliver to Recipient the certification attached hereto as Exhibit F (“Certification Regarding Lobbying”). In addition, Subrecipient shall comply with the applicable restrictions on lobbying contained in the federal appropriations act through which funds for the Subaward were appropriated, [the Consolidated and Further Continuing Appropriations Act, 2015 (P.L. 113-235), Division G, Title II];[[9]](#footnote-8)
    4. Covenant Against Contingent Fees. Subrecipient represents and warrants that no person or entity has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee. In the event of a breach or violation of this representation and warranty, Recipient shall have the right to annul this Agreement without liability or, in its discretion, to offset against amounts it owes Subrecipient under this Agreement or otherwise recover from Subrecipient the full amount of such commission, percentage, brokerage, or contingent fee, and to seek any other legal remedies available to it as a result of such breach;
    5. Suspension and Debarment. Subrecipient represents that neither it nor any of its principals has been debarred, suspended or determined ineligible to participate in federal assistance awards or contracts. Subrecipient further agrees that it will notify Recipient immediately if it or any of its principals is placed on the list of parties excluded from federal procurement or nonprocurement programs available at [www.sam.gov](http://www.sam.gov).;
    6. DUNS Number. Subrecipient agrees and acknowledges that Recipient may not grant the Subaward and Subrecipient may not receive the Subaward unless Subrecipient has provided its Data Universal Numbering System (“DUNS”) number to Recipient. The DUNS number is the nine-digit number established and assigned by Dun and Bradstreet, Inc. to uniquely identify business entities;
    7. Federal Funding Accountability and Transparency Act of 2006. Subrecipient agrees to provide Recipient with all information requested by Recipient to enable Recipient to comply with the reporting requirements of the Federal Funding Accountability and Transparency Act of 2006 (P.L. 109-282, as amended by section 6202 of P.L. 110-252);
    8. Regulations on Nondiscrimination. Subrecipient shall comply with the [HHS] regulations on nondiscrimination in [insert department] programs or activities receiving federal financial assistance at [insert corresponding C.F.R. citation for given department];[[10]](#footnote-9)
    9. Drug-Free Workplace. Subrecipient shall comply with the requirements of the Drug-Free Workplace Act of 1988, 42 U.S.C. § 701 *et seq.* and 2 C.F.R. 182, and the applicable [insert department] regulations set forth in [insert corresponding C.F.R. in-text citation and footnote for given department], which require all programs and activities receiving federal assistance to maintain a drug-free workplace;[[11]](#footnote-10)
    10. Equal Treatment for Faith-Based Organizations. Subrecipient shall comply with the [insert department] regulations regarding the equal treatment of religious organizations in [insert department] programs, [insert corresponding C.F.R. in-text citation and footnote for given department];[[12]](#footnote-11)
    11. Pro-Children Act of 1994. In accordance with 20 U.S.C. 6081 et seq., Subrecipient certifies that Subrecipient, its employees, agents, contractors, and subcontractors will not permit smoking in any portion of an indoor facility owned or leased or contracted for by Subrecipient and used routinely or regularly for the provision of health, day care, education, or library services to children under the age of 18;[[13]](#footnote-12)
    12. Policies on Limited English Proficient Persons. Subrecipient must have written policies that are consistent with the [insert policy document for the corresponding department, with proper citation];[[14]](#footnote-13)
    13. Licenses, Certifications, Permits, Accreditation. Subrecipient shall procure and keep current any license, certification, permit or accreditation required by federal, state or local law and shall submit to Recipient proof of any licensure, certification, permit or accreditation upon request; and
    14. Other Recipient Agreements. Subrecipient shall fulfill all other agreements with Recipient and shall comply with all federal, state and local laws applicable to programs funded by such agreements.

1. **EMPLOYMENT LAWS AND POLICIES.**
   1. Non-Discrimination in Employment. Subrecipient shall comply with all applicable provisions of federal, state and local laws prohibiting discrimination in employment, including any laws that require Subrecipient to not discriminate against any qualified employee or applicant for employment because of race, color, creed, national origin, ancestry, age, sex, sexual orientation, religion, gender identity, genetic information, or disability.
   2. Salary Limitation. Funds provided to Subrecipient under this Agreement shall not be used to pay the salary of an individual at a rate in excess of [federal Executive Level II].[[15]](#footnote-14) (This amount reflects an individual’s base salary exclusive of fringe benefits and any income that an individual may be permitted to earn outside of his or her duties to Subrecipient.)
2. **CONFIDENTIALITY; PROTECTION OF PERSONALLY IDENTIFIABLE INFORMATION.[[16]](#footnote-15)**
3. **PUBLICITY; PUBLIC ANNOUNCEMENTS.** Subrecipient may not publicize this Agreement or its subject matter or state that Recipient or [insert agency name] has approved or endorsed any Services or deliverables Subrecipient has provided or provides as contemplated by this Agreement. No public releases including those for news, advertising, information, technical or scientific purposes relating to this Agreement shall be issued by Subrecipient without [CAA’s] prior written consent.
4. **INTELLECTUAL PROPERTY RIGHTS.**[[17]](#footnote-16) Recipient shall own all rights, title and interest relating to any and all inventions, works of authorship, designs, know-how, ideas and information made or conceived or reduced to practice, in whole or in part, by or for or on behalf of Subrecipient during the term of this Agreement that relate to the subject matter of or arise out of or in connection with the Approved Services (“Work Product”). All Work Product is work made for hire to the extent allowed by law and, in addition, Subrecipient hereby makes all assignments necessary to accomplish the foregoing ownership. Subrecipient shall assist Recipient to further evidence, record and perfect such assignments, and to perfect, obtain, maintain, enforce and defend any rights assigned. Subrecipient hereby irrevocably designates and appoints Recipient as its agents and attorneys-in-fact, coupled with an interest, to act for and on Subrecipient’s behalf to execute and file any document and to do all other lawfully permitted acts to further the foregoing with the same legal force and effect as if executed by Subrecipient and all other creators or owners of the applicable Work Product. Subrecipient represents and warrants that all Work Product created for Recipient under this Agreement is original and does not infringe on the rights of any third party. Subrecipient further agrees to indemnify and hold harmless Recipient against any damages or losses related to any claims of intellectual property infringement by the Work Product. The parties also acknowledge and agree that [the federal awarding agency] 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 the Work Product; and (ii) any rights of copyright to which 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. This provision shall survive the expiration or termination of this Agreement.

1. **INDEMNIFICATION.** [[18]](#footnote-17)Subrecipient shall defend and hold Recipient, its employees, officers, directors, agents and representatives harmless from any and all costs, losses, damages, liabilities, expenses, demands, and judgments, including court costs and attorney's fees, which they may suffer arising from any act or omission or neglect of Subrecipient, its employees, officers, directors, agents or representatives, or anyone else for whose acts Subrecipient may be responsible, in the performance of Subrecipient’s obligations under this Agreement, including, but not limited to, Subrecipient’s failure to meet requirements under Davis-Bacon and Related Acts and Build America, Buy America, and those in connection with loss of life, bodily injury, personal injury, damage to property, contamination or adverse effects on the environment, intentional acts, failure to pay any subcontractors and suppliers, any breach of this Agreement, loss of data, data security breach, and any infringement or violation of any proprietary right (including, but not limited to, patent, copyright, trademark, service mark and trade secret). This provision shall survive the expiration or termination of this Agreement.
2. **INSURANCE.**[[19]](#footnote-18)Subrecipient shall, at all times throughout the Agreement Term, carry insurance in such form and in such amounts as Recipient may from time to time reasonably require against other insurable hazards and casualties that are commonly insured against in the performance of similar services as are to be provided under this Agreement. At a minimum, Subrecipient shall maintain during the Agreement Term at least the following types and limits of insurance coverage:[[20]](#footnote-19)
   1. Workers’ compensation in amounts no less than required by law;
   2. Employer’s Liability Insurance with a limit of $[1,000,000];
   3. Commercial general liability insurance, including personal injury, contractual liability and property damage, with limits of $[1,000,000] per occurrence and $[3,000,000] aggregate;
   4. Professional liability insurance on a claims made basis with a limit of not less than $[1,000,000] per occurrence and $[3,000,000] aggregate; and
   5. Umbrella liability insurance with a limit of $[5,000,000] per occurrence and in the aggregate.

All policies (other than workers’ compensation and employer’s liability insurance) providing such coverage shall name Recipient as an additional insured with respect to Subrecipient’s performance of services under this Agreement. Subrecipient shall provide Recipient with certificates of insurance evidencing such coverage within thirty (30) days after execution of this Agreement, which certificates shall provide that Recipient shall receive thirty (30) days’ advance written notice of any pending cancellation or non-renewal of any of the coverages required by Recipient pursuant to this Agreement. Insurance coverages that expire before the expiration of the Agreement Term shall be promptly renewed by Subrecipient so that there is no gap in coverage and certificates of insurance evidencing such renewal coverage shall be provided to Recipient (by a copy provided to Recipient pursuant to the notice provisions set forth in Section 16(f)) immediately upon renewal. Subrecipient’s failure to maintain insurance in the form and/or amounts required by Recipient pursuant to this Agreement shall be deemed a material breach of this Agreement and Recipient shall have the right thereupon to terminate this Agreement immediately in addition to any other remedy provided herein.

1. **TERMINATION AND SUSPENSION.[[21]](#footnote-20)**
   1. Termination for Cause. Recipient may, by giving written notice to Subrecipient, terminate this Agreement in whole or in part for cause, which shall include, without limitation: (i) failure for any reason of Subrecipient to fulfill timely and properly any of its obligations under this Agreement, including failure to comply with any provision of Section 8 of this Agreement; (ii) Subrecipient’s default, breach or any intervening casualty which poses an immediate threat to life, health or safety; (iii) Subrecipient’s breach of its representations, warranties and certifications contained in this Agreement; (iv) the suspension or debarment or determination that Subrecipient or any of its principals are ineligible to participate in federal assistance awards or contracts; (v) Subrecipient’s failure to maintain the insurance coverage in the form and/or amounts required by Recipient pursuant to this Agreement; (vi) the submission by Subrecipient to [insert department] or Recipient of reports that are incorrect or incomplete in any material respect; (vii) ineffective or improper use by Subrecipient of funds received under this Agreement; (viii) suspension, termination, in whole or in part of, or absence or reduction of appropriations for, grants or reimbursements to Recipient, including actions by the Government that make performance impossible, such as staffing shortages that result in signficant delays in disbursement or funds frozen by the disbursing agency; (ix) the necessity for termination and/or amendment of this Agreement so as to make any terms of this Agreement consistent with federal, state or local laws; (vi) fraudulent activities on the part of Subrecipient; and (x) the filing of bankruptcy, receivership or dissolution by or with respect to Subrecipient. Recipient may also terminate this Agreement in whole or in part without cause upon thirty (30) days’ written notice to Subrecipient.[[22]](#footnote-21)
   2. Termination Based on Available Funding. In the event that Recipient loses funding from the government, Recipient may immediately terminate the Agreement to Subrecipient prior to the project’s end date. In the event of such termination, Subrecipient will be entitled to payment, determined on a prorata basis, for services satisfactorily performed up to the date of termination.
   3. Termination for Convenience. Recipient in its sole discretion may terminate this Agreement in whole or part, upon (30) days written notice to Subrecipient, and require Subrecipient to cease performance. Subrecipient waives all claims for profits not earned as a result of such termination.
   4. Termination by Subrecipient. If Subrecipient is unable or unwilling to comply with any additional conditions or requirements which may arise as a result of changes in or additions to any federal, state or local laws after the commencement of the Agreement Term, including without limitation those applied by [insert agency name] in their grants and reimbursements to Recipient, and which thereby become applicable to Subrecipient during the Agreement Term, Subrecipient shall terminate this Agreement by giving written notice to Recipient. The effective date of such notice of termination shall be no earlier than thirty (30) days from the date of the notice.
   5. Transfer of Performance Upon Termination. Upon giving or receiving notice of termination, Recipient may require Subrecipient to ensure that adequate arrangements have been made for the transfer of performance of the Approved Services to another entity or to Recipient, including the reasonable payments of any costs involved in such transfer out of compensation otherwise due Subrecipient under this Agreement.
   6. Disposition of Property. In the event of any termination of this Agreement, all property and finished or unfinished documents, data, studies, and reports purchased or prepared by Subrecipient under this Agreement shall be disposed of according to [Title X directives][[23]](#footnote-22), and Subrecipient shall be entitled to compensation for any unreimbursed expenses reasonably and necessarily incurred in satisfactory performance of this Agreement during the Agreement Term.
   7. Liability for Default. Whether or not this Agreement is terminated, Subrecipient shall be liable to Recipient for damages sustained by Recipient by virtue of any breach of this Agreement by Subrecipient and Recipient shall be liable to Subrecipient for damages sustained by Subrecipient by virtue of any breach of this Agreement by Recipient. This shall include, without limitation, liability of Subrecipient for the disallowance by [insert department] of the reimbursement of charges submitted by Recipient for services provided by Subrecipient under this Agreement where the disallowance is in any way attributable to Subrecipient, including the provision or maintenance by Subrecipient of inadequate or erroneous records or billing documentation of services provided. If any such reimbursement of charges is disallowed as a result of an audit by [insert department] of Subrecipient or Recipient, the amount disallowed must be paid by Subrecipient to Recipient from funds other than those provided by Recipient under this Agreement.
   8. Suspension of Work. Notwithstanding any other provision hereof, Recipient may, by notice to Subrecipient, suspend all or any portion of the Services. Subrecipient shall stop all such Services immediately upon receipt of Recipient’s suspension order and shall promptly resume the Services after receipt of direction from Recipient to proceed. To the extent permitted under Recipient’s Prime Award, suspension orders issued for conditions or circumstances unrelated to the Subrecipient’s fault or negligence shall result in a reasonable adjustment in the contract schedule. Conditions or circumstances unrelated to the Subrecipient’s fault or negligence include shall include actions by the Government that make performance impossible, such as staffing shortages that result in significant delays in disbursement or funds frozen by the disbursing agency
2. **GENERAL PROVISIONS.**
   1. Governing Law. This Agreement shall be governed by the laws of the State of [insert state], without giving effect to the conflicts of laws provisions thereof, and any action directly or indirectly related to the enforcement of this Agreement shall be commenced in [insert location]
   2. Integration. This Agreement supersedes all oral agreements, negotiations and representations between the parties pertaining to the subject matter of this Agreement.
   3. Severability. If any provision of this Agreement is found to be invalid, the remaining provisions shall remain in full force and effect.
   4. Waiver of Breach. The waiver by either party of any breach of any provision of this Agreement shall not be deemed a waiver of any subsequent breach by the other party of the same or of different provisions.
   5. Force Majeure. Non-performance by either Party hereunder, other than an obligation to pay money, shall be excused to the extent that performance is rendered impossible by strike, fire, flood, governmental acts, orders or restrictions, or any other reason to the extent that the failure to perform is beyond the control of the non-performing Party.
   6. Headings. The Article headings contained in this Agreement are for reference purpose only and shall not affect in any way the meaning or interpretation of this Agreement.
   7. Binding Effect; Assignment. Except as otherwise provided in this Agreement, every covenant, term, and provision of this Agreement shall be binding upon and inure to the benefit of the parties and their respective and permitted successors, transferees and assigns. Subrecipient shall not assign, subcontract or transfer any of its rights, responsibilities or obligations under this Agreement without Recipient’s prior written consent, which Recipient may withhold in its sole discretion. Should Subrecipient assign, subcontract or transfer any of its rights, responsibilities or obligations hereunder with such consent from Recipient, Subrecipient and the party to which it proposes to assign or subcontract its responsibilities or services hereunder must enter into a written agreement that is consistent with this Agreement and the various requirements specified hereunder (including but not limited to [Title X] program requirements) and that is approved by Recipient prior to its execution.
   8. Notices. Notices required by this Agreement shall be made in writing and delivered via U.S. mail (postage prepaid), commercial courier, or personal delivery or sent by facsimile or other electronic means (provided that receipt is confirmed). Any notice delivered or sent as described above shall be effective on the date received. All notices and other written communications under this Agreement shall be addressed to the individuals in the capacities indicated below, unless otherwise modified by subsequent written notice.

If to Recipient:

[NAME]

[TITLE]

[AGENCY]

[STREET ADDRESS]

[CITY, STATE, ZIP]

[TELEPHONE #]

[FAX #]

[E-MAIL ADDRESS]

If to Subrecipient:

[NAME]

[TITLE]

[AGENCY]

[STREET ADDRESS]

[CITY, STATE, ZIP]

[TELEPHONE #]

[FAX #]

[E-MAIL ADDRESS]

* 1. Amendment. Any amendment to this Agreement, including to the Approved Services and the Approved Budget, shall be reduced to writing, signed by an authorized representative of each party, and attached to this Agreement.
  2. Counterpart Execution; Facsimile Execution. This Agreement may be executed in any number of counterparts with the same effect as if all of the parties had signed the same document. Such executions may be transmitted to the other parties by facsimile or other electronic transmission and such facsimile or other electronic execution shall have the full force and effect of an original signature. All fully executed counterparts, whether original executions or facsimile executions, electronic executions or a combination of the foregoing, shall be construed together and shall constitute one and the same agreement.

*[Remainder of page left intentionally blank]*

IN WITNESS WHEREOF, each of the parties has executed this Agreement by its duly authorized officer as of the day and year first written above.

**[NAME OF RECIPIENT] [NAME OF SUBRECIPIENT]:**

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name: Name:

Title: Title:

**SUBAWARD AGREEMENT**

**List of Exhibits**

**Exhibit A Notice of Prime Award**

**Exhibit B Subaward Data**

**Exhibit C Approved Services**

**Exhibit D Approved Budget**

**Exhibit E Required Contract Provisions**

**Exhibit F Certification Regarding Lobbying**

**Exhibit A**

**Notice of Prime Award**

**Exhibit B**

**Subaward Data[[24]](#footnote-23)**

|  | Subrecipient Name | [Insert Subrecipient name, which must match the name associated with its unique entity identifier] |
| --- | --- | --- |
|  | Subrecipient Unique Entity Identifier: | [Insert Subrecipient DUNS #] |
|  | Federal Award Identification Number (FAIN): | [Insert Federal Award Identification #] |
|  | Federal Award Date of Award to the Recipient by the Federal Agency: | [Insert date] |
|  | Subaward Period of Performance Start Date: | [Insert date] |
|  | Subaward Period of Performance End Date: | [Insert date] |
|  | Amount of Federal Funds Obligated by this Action by the Pass-Through Entity to the Subrecipient: | [Insert Total Agreement Funds] |
|  | Total Amount of Federal Funds Obligated to the Subrecipient by the Pass-Through Entity Including the Current Obligation: | [If additional federal awards have been awarded to the Subrecipient, insert total amount, including the Total Agreement Funds specified above] |
| (viii) | Total Amount of Federal Funds Obligated to the subrecipient by the pass-through entity, including the current financial obligation: | [Insert amount] |
| 1. ) | Total Amount of the Federal Award Committed to the Subrecipient by the Pass-Through Entity: | [Insert amount] |
| 1. I | Federal Award Project Description: | [Insert description] |
|  | Name of Federal Awarding Agency: | [Insert name] |
|  | Name of Pass-Through Entity: | Recipient |
|  | Contact Information for Federal Awarding Official: | [Insert contact information] |
|  | Contact Information for Recipient Authorizing Official: | [Insert contact information] |
|  | Contact Information for Recipient Project Director: | [Insert contact information] |
|  | CFDA Number and Name: | [Insert CFDA number and name] |
|  | Identification of Whether Subaward is R&D: | [Indicate whether subaward is R&D] |
|  | Indirect Cost Rate for Recipient Federal Award | [Insert Recipient indirect cost rate] |
|  | Subrecipient Indirect Costs: | See Exhibit D – Approved Budget |

**Exhibit C**

**Approved Services**

**Exhibit D**

**Approved Budget**

**Exhibit E**

**Required Contract Provisions**

**(Appendix II to the Uniform Guidance – Contract Provisions for Non-Federal Entity Contracts Under Federal Awards)[[25]](#footnote-24)**

1. Contracts for more than the simplified acquisition threshold currently set at $250,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.
2. All contracts in excess of $10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.
3. Equal Employment Opportunity. Except as otherwise provided under 41 CFR part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, as amended by Executive Order 11375, and implementing regulations at 41 CFR part 60.
4. Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of $2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR part 5). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR part 3). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.
5. Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of $100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR part 5). Under 40 U.S.C. 3702 of the Act, each contractor must 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 one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must 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.
6. Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of “funding agreement” under 37 CFR 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR part 401 and any implementing regulations issued by the awarding agency.
7. Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and subgrants of amounts in excess of $150,000 must contain a provision that requires the non-Federal award to agree to 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 as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
8. Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR part 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.
9. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding $100,000 must 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 must 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 non-Federal award.
10. § 200.323, Procurement of Record Materials.

“(a) A recipient or subrecipient that is a State agency or agency of a political subdivision of a State and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 as amended, [42 U.S.C. 6962](https://www.govinfo.gov/link/uscode/42/6962). The requirements of Section 6002 include procuring only items designated in the guidelines of the Environmental Protection Agency (EPA) at [40 CFR part 247](https://www.ecfr.gov/current/title-40/part-247) that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired during the preceding fiscal year exceeded $10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

(b) The recipient or subrecipient should, to the greatest extent practicable and consistent with law, purchase, acquire, or use products and services that can be reused, refurbished, or recycled; contain recycled content, are biobased, or are energy and water efficient; and are sustainable. This may include purchasing compostable items and other products and services that reduce the use of single-use plastic products. See Executive Order 14057, section 101, Policy.”

1. § 200.216, Prohibition on certain telecommunications and video surveillance equipment or services.

“(a) Recipients and subrecipients are prohibited from obligating or expending loan or grant funds to:

(1) Procure or obtain covered telecommunications equipment or services;

(2) Extend or renew a contract to procure or obtain covered telecommunications equipment or services; or

(3) Enter into a contract (or extend or renew a contract) to procure or obtain covered telecommunications equipment or services.

(b) As described in section 889 of [Public Law 115-232](https://www.govinfo.gov/link/plaw/115/public/232), “covered telecommunications equipment or services” means any of the following:

(1) Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities);

(2) 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);

(3) Telecommunications or video surveillance services provided by such entities or using such equipment;

(4) 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;

(c) For the purposes of this section, “covered telecommunications equipment or services” also include systems 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.

(d) In implementing the prohibition under section 889 of [Public Law 115-232](https://www.govinfo.gov/link/plaw/115/public/232), heads of executive agencies administering loan, grant, or subsidy programs must 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 telecommunications equipment or services, to procure replacement equipment or services, and to ensure that communications service to users and customers is sustained.

(e) When the recipient or subrecipient accepts a loan or grant, it is certifying that it will comply with the prohibition on covered telecommunications equipment and services in this section. The recipient or subrecipient is not required to certify that funds will not be expended on covered telecommunications equipment or services beyond the certification provided upon accepting the loan or grant and those provided upon submitting payment requests and financial reports.

(f) For additional information, see section 889 of [Public Law 115-232](https://www.govinfo.gov/link/plaw/115/public/232) and [§ 200.471](https://www.ecfr.gov/current/title-2/section-200.471).”

1. § 200.322, Domestic preferences for procurements.

(a) The recipient or subrecipient should, to the greatest extent practicable and consistent with law, 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 this section must be included in all subawards, contracts, and purchase orders under Federal awards.

(b) For purposes of this section:

(1) “Produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

(2) “Manufactured products” means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

(c) Federal agencies providing Federal financial assistance for infrastructure projects must implement the Buy America preferences set forth in [2 CFR part 184](https://www.ecfr.gov/current/title-2/part-184).

**Exhibit F**

**Certification Regarding Lobbying**

**Certification for Contracts, Grants, Loans, and Cooperative Agreements.**

The undersigned, on behalf of [Subrecipient], 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 an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
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 undersigned 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. Code. 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.

**[NAME OF SUBRECIPIENT]**

By:

Name:

Title:

Date:

1. Provide a general statement of the purpose of the subaward agreement. Note that this sample subaward agreement describes the purposes of the agreement in a series of “Whereas” clauses, but this is not required. The specific services to be performed under the subaward agreement will be detailed in a separate section. [↑](#footnote-ref-0)
2. Identify the prime award(s), including any state or local prime award(s) if the pass-through entity is blending several funding streams to pay for services under the subaward agreement. [↑](#footnote-ref-1)
3. This subaward agreement is set up to pay the subrecipient on a reimbursement basis. However, CAAs may elect to pay the subrecipient on an advance basis. As a general rule, subrecipients should be paid on an advance basis if they meet certain requirements. 2 C.F.R. § 200.305(b). [↑](#footnote-ref-2)
4. Pass-through entity should consider whether it makes sense to provide the subrecipient with a form invoice that the subrecipient must adhere to in order to receive payments. [↑](#footnote-ref-3)
5. Include applicable statutes, regulations and guidelines that address financial management systems and financial records. [↑](#footnote-ref-4)
6. Ensure that the frequency of subrecipient reporting is sufficient for the pass-through entity to meet its own reporting requirements under the prime award. [↑](#footnote-ref-5)
7. All compliance requirements in this section should flow from the federal prime award. In general, the requirements that apply to the pass-through entity, including public policy requirements that may be attached to the expenditure of federal funds, also apply to subrecipients and contractors under grants, unless an exception is specified. [↑](#footnote-ref-6)
8. Applicants for (and recipients of) federal grants, cooperative agreements, contracts, and loans are prohibited by 31 U.S.C. 1352, “Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions,” from using appropriated federal funds to pay for certain lobbying activities. Pass-through entities should check to see whether the federal awarding agency has adopted regulations that implement these government-wide lobbying restrictions (e.g., 45 C.F.R. Part 93 for HHS awards) and require subrecipients to comply with the applicable rules. Note that contracts and subawards exceeding $100,000 must require the contractor or subrecipient to make the certification specified in the federal awarding agency’s regulations on “New Restrictions on Lobbying” (e.g., 45 C.F.R. Part 93 for HHS awards). [↑](#footnote-ref-7)
9. Insert the applicable federal appropriations act. [↑](#footnote-ref-8)
10. Certain federal statutes, including Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d *et seq.*, Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681, 1682, 1683, 1685 and 1686, and the Age Discrimination Act of 1975, 42 U.S.C. § 6101 *et seq.,* prohibit discrimination under any program or activity receiving federal financial assistance. The bracketed provisions are the implementing regulations for [insert department] and should be updated for the applicable federal awarding agency. [↑](#footnote-ref-9)
11. The bracketed provisions are the implementing regulations for [insert department] and should be updated for the applicable federal awarding agency. [↑](#footnote-ref-10)
12. The bracketed provisions are the implementing regulations for [insert department] and should be updated for the applicable federal awarding agency. [↑](#footnote-ref-11)
13. The Pro-Children Act of 1994, 20 U.S.C. 7183, imposes restrictions on smoking in facilities where federally funded children’s services are provided. [↑](#footnote-ref-12)
14. Recipients of federal financial assistance must take reasonable steps to ensure that people with limited English proficiency have meaningful access to health and social services and that there is effective communication between the service provider and individuals with limited English proficiency. The bracketed provisions are the implementing regulations for [insert department] and should be updated for the applicable federal awarding agency. [↑](#footnote-ref-13)
15. Check to see whether the federal prime award has a salary limitation based on the federal award authorizing statute or the federal appropriations act. [↑](#footnote-ref-14)
16. Pass-through entities should include a confidentiality provision that requires the subrecipient to protect and safeguard personally identifiable information created, obtained, or maintained in the course of providing services under the subaward agreement in compliance with federal, state and local laws. [↑](#footnote-ref-15)
17. Note that federal awarding agencies often require that recipients include a statement with any work product developed in whole or in part with federal funds describing how the work was funded. [↑](#footnote-ref-16)
18. Note that Section 10 (Indemnification) and Section 11 (Insurance) are both drafted as only requiring the subrecipient to indemnify the pass-through entity and to carry liability insurance. The subrecipient may negotiate these provisions to make the obligations mutual. [↑](#footnote-ref-17)
19. See note on Insurance above. [↑](#footnote-ref-18)
20. Insurance coverage and amounts are provided as examples only; pass-through entity should negotiate appropriate coverage types and limits with the subrecipient. CAAs should consult with an insurance professional familiar with their policies. [↑](#footnote-ref-19)
21. Note that the subrecipient may have specific termination rights under the federal award authorizing statute or implementing regulations (e.g., termination and appeals procedures for Head Start delegate agencies) that are not reflected here. [↑](#footnote-ref-20)
22. Note that this termination provision has been drafted to be favorable to the pass-through entity. In some cases, it may be more appropriate to give the subrecipient an opportunity to cure the breach before the pass-through entity has the right to terminate this Agreement. [↑](#footnote-ref-21)
23. Check federal prime award and/or the federal award authorizing statute for disposition instructions. [↑](#footnote-ref-22)
24. This information is required by the Uniform Guidance, 2 C.F.R. § 200.332(b). The Uniform Guidance also requires that if any of these data elements change, the pass-through entity must include the changes in subsequent subaward modification. When some of this information is not available, the pass-through entity must provide the best information available to describe the federal prime award and subaward. [↑](#footnote-ref-23)
25. These contract provisions are taken from the Uniform Guidance (Appendix II to Part 200). Be sure to check whether the federal awarding agency has adopted its own version of the Uniform Guidance and use the contract provisions required by that version. [↑](#footnote-ref-24)