

Appendix B – SBDC Federal/State Funding Pass-through Terms

- **U.S. Department of Housing and Urban Development Community Development Block Grant Program (CDBG),**
- **U.S. Economic Development Administration (EDA),**
- **California Governor’s Office of Business and Economic Development (GO-Biz), and**
- **U.S. Small Business Administration (SBA).**

Although this list presents the known list of fund sources, it is possible that fund sources may change during the lifetime of a Resulting Contract, in which case the terms listed below may change or be incomplete. The complete terms will be provided at the time of contract. As a result of Federal/State funding requirements, the following terms pass through to the contractor selected from the Prequalified Pool (Contractor), requiring compliance:

OMB Circulars. To the extent that Office of Management and Budget (OMB) Circulars are applicable, they will apply. If such OMB Circulars are amended or modified during the term of the Agreement, such changes are incorporated by reference to the Agreement on their effective date. OMB “Super Circular” A-81 (2 CFR 200) is applicable to the contract as of its effective date of December 26, 2014.

Unallowable Costs. Unless authorized, all costs incurred prior to the award issue date and costs not consistent with the funding opportunity and/or 2 CFR Part 200 are not allowable.

Administrative and National Policy Requirements. Public policy requirements are requirements with a broader national purpose than that of the Federal sponsoring program or award that an applicant/non-federal entity must adhere to as a prerequisite to and/or condition of an award. Public policy requirements are established by statute, regulation, DOJ, and OMB memorandums, or Executive order. In some cases, they relate to general activities, such as preservation of the environment, while, in other cases they are integral to the purposes of the award-supported activities. An application funded with the release of federal funds through a contract award does not constitute or imply compliance with federal statute and regulations. Funded organizations are responsible for ensuring that their activities comply with all applicable federal regulation requirements.

Executive Pay. The Consolidated Appropriations Act, 2020 (Pub. L. 116-94) signed into law on December 20, 2019, restricts the amount of direct salary to Executive Level II of the Federal Executive Pay scale. The Executive Level II salary per E.O. 13756, was increased to \$212,100 effective January 2023. The law limits the salary amount that may be awarded and charged to Small Business Administration (SBA) assistance agreements and cooperative agreements. Award funds may not be used to pay the salary of any individual at a rate in excess of Executive Level II. This amount reflects an individual’s base salary exclusive of fringe and any income that an individual may be permitted to earn outside of the duties to the applicant organization. This salary limitation also applies to subawards/subcontracts under an SBA grant or cooperative agreement.

Non-federal Entity Responsibilities

- Conduct the project in accordance with the approved technical proposal, budget, goals, milestones, timelines, or metrics. Changes to any SBA Award Standard Terms and Conditions of guiding documents must be submitted to SBA for pre-approval in accordance with all SBA terms and conditions.
- Be responsive to SBA requests for information and communication.
- Cooperate with all programmatic and financial examinations and any accreditation or certification reviews conducted by SBA, its agents, or contractors. Contractor will promptly address and act upon all findings regarding Contractor’s project made as part of any such process.
- Provide full access to all activities supported with project funds to the general public without regard to their participation in any paid membership or subscription plan.

- Maintain adequate staffing levels for the delivery of client services, including replacing key personnel no more than 60 days after they cease their involvement with the project.
- Participate in SBA surveys and studies regarding the effectiveness and outcomes of the program/project, curriculum, types of assistance, service delivery methods, etc.
- Coordinate with SBA and other Agency resource partners operating within Contractor's project service area to maximize the effectiveness of Contractor's efforts and avoid duplication of products and services.
- Promote SBA programs, products, and services to clients, as appropriate.
- Maintain adequate, readily accessible facilities for assisting clients, including satellite locations where appropriate.
- Provide meaningful access to project services for clients with limited English language proficiency and/or disabilities.

SAM and UEI Requirements Awards are subject to requirements as set forth in 2 CFR 25.110 Central Contractor Registration (CCR) (now "SAM") and Unique Entity Identifier (UEI) Numbers. See 2 CFR Part 25 - Appendix A4, System of Award Management (SAM) and Universal Identifier Requirements for more information.

A. Requirement for System of Award Management

Unless Contractor is exempted from this requirement under 2 CFR 25.110, Contractor, as the non-federal entity, must maintain the currency of Contractor's information in the SAM, until Contractor submits the final financial report required or receive the final payment, whichever is later. This requires that Contractor review and update the information at least annually after the initial registration, and more frequently if required by changes in Contractor's information or another award term.

Acknowledgement of SBA Support/Use of SBA's Logo/Publication Requirements.

It is important that Contractor's clients and the general public are aware of the Program and SBA's role in this project, as well as the taxpayer funded support the Agency is providing under any federal award. Therefore, Contractor must include the following acknowledgment of support statement on all materials produced in whole or in part with Project Funds:

"Funded [in part] through a Cooperative Agreement with the U.S. Small Business Administration."

For purposes of this requirement, the term "materials" includes, but is not limited to, press releases, brochures, pamphlets, handouts, reports, advertisements, books, curricula, websites, video or audio productions, and similar items regardless of the medium employed. The term "materials" does not include stationery or business cards and SBA's logo may not be used on such items.

Where Contractor uses Project Funds to produce materials featuring editorial content, Contractor must use the following alternate acknowledgment of support statement (either independently or in conjunction with the SBA logo):

"Funded in part through a Cooperative Agreement with the U.S. Small Business Administration. All opinions, conclusions, and/or recommendations expressed herein are those of the author(s) and do not necessarily reflect the views of the SBA."

In addition, Contractor must display signage featuring the SBA logo at all facilities that are open to the public and which are being used for project activities. Such signage must prominently feature the acknowledgment of support statement identified above.

Where used, the acknowledgment of support statement must be presented in a legible typeface, font size, and (where applicable) color contrast and must appear verbatim and may not be altered or replaced with substitute language. However, on materials with severe space constraints such as signs and banners, Contractor may use "SBA" in the acknowledgment of support statement instead of "U.S. Small Business Administration."

Contractor may elect to use SBA's logo on materials produced with Project Funds. Contractor may contact the GMO in order to obtain a high-resolution copy of SBA's logo and a copy of SBA's Graphic and Use Guide. Where

used, the SBA logo may be positioned in close proximity to Contractor's organization's logo or may be placed in a prominent location elsewhere in the material. However, SBA's logo may not be placed in close proximity to any third party's logo, or used in such a way as may imply that a relationship exists between SBA and any third party (Note: Contractor's organization's parent entity is not considered a third party). Additionally, in each instance where Contractor uses the SBA logo, Contractor must also include the acknowledgement of support statement in reasonably close proximity to the logo.

Neither the SBA logo nor the acknowledgment of support statement may be used in connection with activities outside the scope of this Award. In particular, UNDER NO CIRCUMSTANCES may the SBA logo or acknowledgment of support statement appear on items used in conjunction with fundraising, lobbying, or the express or implied endorsement of any goods, service, entity, or individual. Additionally, Contractor may not use the SBA logo on any social media sites or services without obtaining prior approval from SBA.

Mandatory Disclosures

Consistent with 2 CFR 200.113, applicants and non-federal entity's must disclose in a timely manner, in writing to the SBA awarding agency with a copy to the SBA Office of Inspector General (OIG), all information related to violations of federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the federal award. Contractors must disclose, in a timely manner, in writing to the prime recipient (pass through entity) and the SBA OIG, all information related to violations of federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the federal award. Disclosures must be sent in writing to the awarding agency and to the SBA OIG and OGM at the following addresses:

US Small Business Administration
Attention: Office of Grants Management
409 3rd Street SW, Suite 5000
Washington, DC 20416
AND
US Small Business Administration
Office of Inspector General
409 3rd Street SW, 5th Floor
Washington, DC 20416

Failure to make required disclosures can result in any of the remedies described in 2 CFR 200.338 remedies for noncompliance, including suspension or debarment.

Lobbying Restrictions

Per 2 CFR §200.450, award recipients are subject to the restrictions on lobbying as set forth in 2 CFR part 200.18 U.S.C. § 1913, No part of the money appropriated by any enactment of Congress shall, in the absence of express authorization by Congress, be used directly or indirectly to pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a Member of Congress, a jurisdiction, or an official of any government, to favor, adopt, or oppose, by vote or otherwise, any legislation, law, ratification, policy, or appropriation, whether before or after the introduction of any bill, measure, or resolution proposing such legislation, law, ratification, policy, or appropriation; but this shall not prevent officers or employees of the United States or of its departments or agencies from communicating to any such Member or official, at his/her request, or to Congress or such official, through the proper official channels, requests for any legislation, law, ratification, policy, or appropriations which they deem necessary for the efficient conduct of the public business, or from making any communication whose prohibition by this section might, in the opinion of the Attorney General, violate the Constitution or interfere with the conduct of foreign policy, counter-intelligence, intelligence, or national security activities. Violations of this section shall constitute as a violation of 31 U.S.C. § 1352(a).

CERTIFICATION REGARDING LOBBYING

1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, 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 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 intending 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 Contractor shall complete and submit Standard Form -LLL, "Disclosure Form to Report Lobbying," to the Prime Recipient.

3) The Contractor shall require that the language of this certification be included in the award documents for all subcontracts at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all Contractors 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.

DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

Contractor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any federal department or agency.

Drug-Free Workplace

The Drug-Free Workplace Act of 1988 (41 U.S.C. § 701 et seq.) requires that all organizations receiving contracts from any Federal agency agree to maintain a drug-free workplace. The non-federal entity will provide a drug-free workplace and will comply with the requirement to notify NIH if an employee is convicted of violating a criminal drug statute. Failure to comply with these requirements may be cause for debarment. Government wide requirements for Drug- Free Workplace for Financial Assistance are found in 2 CFR part 182; SBA implementing regulations are set forth in 2 CFR part 382.400. All non-federal entities of SBA grant funds must comply with the requirements in Subpart B (or Subpart C if the non-federal entity is an individual) of part 382.

Advancing Racial Equity and Support for Underserved Communities

Executive Order: Advancing Racial Equity and Support for Underserved Communities through the Federal Governments (E.O. 13985 can be found at: <https://www.federalregister.gov/documents/2021/01/25/2021-01753/advancing-racial-equity-and-support-for-underserved-communities-through-the-federal-government>)

Trafficking Victims Protection Act of 2000 (22 U.S.C. 7104(G)), as amended, and 2 C.F.R. PART 175

The Trafficking Victims Protection Act of 2000 authorizes termination of financial assistance provided to a private entity, without penalty to the federal government, if the recipient or Contractor engages in certain activities related to trafficking in persons. 2 C.F.R. § 175.15(b). See <http://www.gpo.gov/fdsys/pkg/CFR-2012-title2-vol1/pdf/CFR-2012-title2-vol1-sec175-15.pdf>.

Accessibility Provisions

Non-federal entities of federal financial assistance (FFA) from SBA must administer their programs in compliance with federal civil rights law. This means that non-federal entities of SBA funds must ensure equal access to their programs without regard to a person's race, color, national origin, disability, age, and in some circumstances, sex and religion. This includes ensuring Contractor's programs are accessible to persons with limited English

proficiency. SBA provides guidance to recipients of FFA on meeting their legal obligation to take reasonable steps to provide meaningful access to their programs by persons with limited English proficiency.

The SBA Office for Civil Rights also provides guidance on complying with civil rights laws enforced by SBA. Recipients of SBA also have specific legal obligations for serving qualified individuals with disabilities. Please contact the SBA Office for Civil Rights for more information about obligations and prohibitions under federal civil rights laws at 1- 800-827-5722.

Accessibility of Facilities and Events

In accordance with the Americans With Disabilities Act of 1990 (42 U.S.C. § 12101 et seq.) and § 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), all facilities Contractor uses to provide services to the public in connection with this project must be accessible by persons with disabilities. In addition, all notices, promotional items, brochures, publications, and media announcements informing the public of events, programs, meetings, seminars, conferences and workshops conducted pursuant to this project must include the following accessibility/accommodations notice:

“Reasonable accommodations for persons with disabilities will be made if requested at least two weeks in advance. Contact Contractor’s GOTR (Program Manager).”

Data Collection and Performance Measurement:

All non-federal entities are required to collect and report evaluation data to ensure the effectiveness and efficiency of its programs under the Government Performance and Results (GPRA) Modernization Act of 2010 (P.L. 102-62). Non-federal entities must comply with the performance goals, milestones, and expected outcomes as reflected in the Notice of Funding Opportunity (NOFO) and are required to submit data per reporting requirements. Please contact Contractor’s Grant Officer Technical Representative (GOTR) (Program Manager) for additional submission information.

Procurement of Goods and Services:

Contractor may follow Contractor’s own procurement policies and procedures when contracting with Project Funds, but Contractor must comply with the requirements of 2 C.F.R. §§ 200.317-200.326. Additionally, when using Project Funds to procure supplies and/or equipment, Contractor is encouraged to purchase American-manufactured goods to the maximum extent practicable. American-manufactured goods are those products for which the cost of their component parts that were mined, produced, or manufactured in the United States exceeds 50 percent of the total cost of all their components. For further guidance regarding what constitutes an American-manufactured good (also known as a domestic end product), see 48 C.F.R. Part 25.

Audits

If Contractor is not subject to the requirements of the Single Audit Act, Contractor must prepare an annual financial statement. If Contractor’s organization has been categorized as a high-risk entity by SBA due to financial and/or performance issues, Contractor will be required to obtain an audited annual financial statement at Contractor’s own expense until such time as Contractor organization is removed from the high-risk category.

Non-federal entities are responsible for submitting their Single Audit Reports and the Data Collections Forms (SF-FAC) electronically to the to the Federal Audit Clearinghouse Visit disclaimer page (FAC) within 30 days after receipt or nine months after the FY’s end of the audit period. The FAC operates on behalf of the OMB.

Recordkeeping

Contractor must maintain complete and accurate records and supporting documentation of sufficient detail to facilitate a thorough financial, programmatic, and/or legal compliance audit or examination of projects. Contractor must make these records available to SBA, its agents, its Office of Inspector General, and/or Federal investigators on demand and provide them with unrestricted access to review and make copies of all products, materials, and data, including those prepared or stored electronically. At a minimum, the records Contractor must maintain on projects include:

- The time and attendance of employees whose salaries are charged to the Award, with sufficient detail to substantiate the claimed percentage of work performed in support of the project.
- Contact information for project clients and a log of the type and amount of assistance provided.

- An inventory of equipment purchased, in whole or in part, with award funds. This inventory must comply with the requirements of 2 C.F.R. § 200.313.
- Contractor's ledgers and annual A-133 Audit Report. If Contractor is not subject to the requirements of the Single Audit Act, Contractor must have an annual audited financial statement. Unaudited financial statements are not an acceptable substitute.
- Copies of receipts, invoices, contracts, leases, and other supporting documentation for all expenses paid with Project Funds.
- Copies of checks, receipts, letters of donation, and other supporting documentation for all matching contributions related to this Award.
- Copies of judicial and administrative decisions and compliance reviews (as applicable) and other supporting documentation demonstrating Contractor's adherence to the legal requirements listed in the SF-424B

Records may be kept in hard copy, electronic, or facsimile form and must be retained for no less than three years from the date the final project report is due. For further guidance regarding recordkeeping requirements, see 2 C.F.R. §§ 200.333 – 200.337.

Restrictions on Certain Types of Clients

Contractor may not utilize project resources to provide counseling services to any business that:

- is other than small (as defined by SBA);
- is based in a foreign country;
- is engaged in any activity that is illegal under federal, state, or local law or that can reasonably be determined to support or facilitate any activity that is illegal under federal, state, or local law;
- derives more than one-third of its gross annual revenue from legal gambling activities;
- presents live performances of a prurient sexual nature or derives more than a de minimis amount of revenue from the sale of products or services of a prurient sexual nature;
- is not organized for profit (Exception: To the extent it does not negatively impact the goals or milestones established under this Award or detract from its core purpose, Contractor may use project resources to counsel non-profit organizations that devote a significant portion of their activities to assisting entrepreneurs).

Allowable Costs

All costs charged to awards are subject to audit and examination. Contractor is responsible for ensuring proper management and accounting of project funds in order to avoid cost disallowances. All direct costs charged to awards must be reasonable given the relevant market and industry area and the nature of the good or service involved. Direct costs claimed by Contractor's organization must also be allowable under the relevant cost principles and be clearly and specifically allocable, either in whole or in part, to the project funded by the award. In addition, Contractor is not permitted to charge costs associated with any of the following items or activities to the award:

- Transactions with suspended or debarred entities;
- New construction of facilities or acquisition of real estate; however, project funds may be used to pay for minor renovations of an existing facility with prior approval of the AA/SBDC on a case-by-case basis;
- Litigation, whether civil, criminal, or administrative;
- Providing matching contribution to any other Federal awards;
- Meals, lodging, per diem, or other subsistence expenses associated with local travel, unless approved by the Grant Officer Technical Representative (GOTR) (Program Manager). However, project funds may be used to pay transportation expenses for local travel.

Applicable Law and Policy Requirements

Except for circumstances in which Federal law defers to State or local law – such as zoning matters, building and business permits, and recording requirements – awards will be governed by and construed under Federal law. Specifically, awards are subject to the following laws, regulations, and policies in addition to those enumerated in the SF 424B (Assurances: Non-Construction Programs):

- 15 USC § 648 (SB Act, SBDC Program);
- 13 CFR Part 130 (Small Business Development Centers);
- 5 U.S.C. App. 1 (Inspector General Act of 1978);
- 15 U.S.C. § 78dd-1 et seq. (Foreign Corrupt Practices Act);
- 15 U.S.C. § 631 et seq. (Small Business Act);

- f. 22 U.S.C. § 7101 et seq. (Trafficking Victims Protection Act of 2000);
- g. 22 U.S.C. § 7207 (Prohibition on United States Assistance and Financing to Certain Foreign Nations);
- h. 31 U.S.C. § 6101 note (Digital Accountability and Transparency Act of 2014);
- i. 31 U.S.C. § 6305 Using Cooperative Agreements
- j. 41 U.S.C. § 701 et seq. (Drug-Free Workplace Act of 1988), as implemented by 2 C.F.R. Part 182;
- k. 41 U.S.C. § 6306 (Prohibition on Members of Congress making contracts with the Federal Government);
- l. 42 U.S.C. § 12101 et seq. (Americans with Disabilities Act of 1990), as implemented by 28 C.F.R. Parts 35 and 36;
- m. 48 U.S.C. § 1469a (Waiver of Matching Fund Requirements for Awards to Insular Areas);
- n. 49 U.S.C. App. 1517 (Fly America Act);
- o. 2 C.F.R. Parts 180 and 2700 (Non-procurement Debarment and Suspension);
- p. 13 C.F.R. Parts 112, 113, and 117 (Civil Rights Compliance);
- q. 13 C.F.R. Part 146 (Restrictions on Lobbying);
- r. 15 C.F.R. Parts 730-774 (Export Restrictions);
- s. 22 C.F.R. Parts 120-130 (International Traffic in Arms);
- t. 31 C.F.R. Parts 500-598 (Foreign Assets Control);
- u. 37 C.F.R. Part 401 (Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts, and Cooperative Agreements);
- v. Executive Order 13166 (Improving Access to Services for Persons with Limited English Proficiency);
- w. Executive Order 13513 (Federal Leadership on Reducing Text Messaging While Driving); and
- x. Executive Order 13788 (Buy American and Hire American).

Implementation of Work Program; Cooperation with Monitoring (Subsection for CDBG, ESG and HOPWA Contracts only)

- The Work Program for direct services must be intended to either maintain services that are currently funded with CDBG, ESG or HOPWA or increase the level of services currently provided by Contractor.
- Contractor shall abide by all existing and future applicable federal laws and regulations, including HUD, DOJ and Council on Environmental Quality (CEQ) regulations, as they may be amended, from time to time, pertaining to the Work Program and to third person contracts or agreements relating to the Work Program. In the event the Funding Source amends, waives, or repeals any Funding Source administrative regulation previously applicable to Contractor's performance under this Agreement, MOHCD/OEWD expressly reserves the right to require performance of Contractor as though the regulation were not amended, waived or repealed, subject only to written and binding objection by the Funding Source. Prior to constructing any physical improvements using the Contract Funds, Contractor shall forward to City a copy of any required environmental approvals, determinations, negative declaration exemptions or the like.
- Contractor shall, upon request or as appropriate, prepare and make public presentations or conduct public meetings or hearings relative to the accomplishments of the Work Program. Contractor agrees to promptly comply with any request by MOHCD/OEWD to conduct such presentations or meetings in response to MOHCD/OEWD or community concerns relating to the Work Program.

Disbursement Procedures (Subsection for CDBG, ESG and HOPWA Contracts only)

City will distribute the Contract Amount to Contractor for eligible costs incurred by Contractor on a cost-reimbursement basis in conformance with all the terms of the Agreement and with the provisions of Office of Management and Budget ("OMB") Uniform Guidance requirements in 2 C.F.R. Part 200.

Program Income (Section for CDBG, ESG and HOPWA Contracts only)

A. "Program Income" shall mean gross income earned by Contractor from CDBG-supported, ESG-supported and HOPWA-supported activities, including but not limited to service fees, proceeds from the sale of commodities and real or personal property, usage and rental fees, payments of principal and interest on loans to eligible recipients and the repayment of deferred payment loans. For projects that include construction, "Program Income" means all gross income from the use or rental of real property that was constructed or improved by funds contracted under the Agreement, less costs incidental to generation of such income. To the extent such construction or improvement is assisted with funds other than those contracted under the Agreement, "Program Income" shall be adjusted to reflect the percentage of funds contracted under the Agreement as compared to the total construction or improvement costs for the project. In addition to the use restrictions discussed in section (B) and (C) below, all other provisions of the Agreement shall apply to expenditures of Program Income.

B. Program Income generated prior to the disbursement of the entire Contract Amount shall be retained by Contractor and expended against operating costs or improvement items identified in the Project Budget, or against additional operating costs or improvement items that are approved in writing by MOHCD/OEWD. Program Income shall be substantially disbursed for eligible activities before additional cash disbursements may be requested under the Agreement. The Contract Amount to be disbursed to Contractor may be reduced to the extent MOHCD/OEWD reasonably determines Program Income is available to pay for items listed in the Project Budget.

C. Program Income earned after the disbursement of the entire Contract Amount but before expiration of the term of the Agreement, shall be expended for eligible activities only and upon the prior written approval of MOHCD/OEWD.

D. Upon expiration of the later of (i) the tenure period; (ii) the term of the Agreement (for Work Programs that do not include construction); and (iii) the tenure period of any other CDBG-funded, ESG-funded or HOPWA-funded agreement between City and Contractor, or if such other agreement does not have a tenure period then upon its expiration, Contractor shall return to City any unexpended Program Income from the Work Program or from any other CDBG-funded, ESG-funded or HOPWA-funded activity.

E. Contractor agrees to comply with HUD regulations concerning Program Income, which are established in the Consolidated Community Development Block Grant Regulations (24 C.F.R. Part 570) and Uniform Guidance requirements in OMB C.F.R. Title 2, Subtitle A, Chapter II, Part 200, Subpart D §200.80.

Subcontracting (Subsection for CDBG, ESG and HOPWA Contracts only) No person providing services under contract with Contractor will receive more than a reasonable rate of compensation for such services paid with the Contract Amount, which amount shall not exceed, on a daily basis, the maximum daily rate of compensation for a GS-18 employee as established by federal law. Adjustments of eligible costs for such services may be made where audit and monitoring reviews indicate that the rates of compensation were not reasonable or exceeded the maximum permissible rates. Services provided under an independent contractor relationship is governed by the Procurement Standards set forth in 2 C.F.R. Part 200 and is not subject to the GS-18 limitation.

Books and Records

(Subsection for CDBG, ESG and HOPWA Contracts only) During the term, and for a period of five (5) years after expiration of the term, Contractor shall also create and maintain records that include the following information: (i) records demonstrating that each activity undertaken meets CDBG, ESG, or HOPWA program specific requirements; and (ii) financial information as required by 24 C.F.R. Part 570.502. All records shall be maintained in accordance with OMB Uniform Guidance requirements in 2 C.F.R. Part 200 and HUD regulations, as applicable.

Conflict of Interest

(Subsection for CDBG, ESG and HOPWA Contracts only) In accordance with the OMB conflict of interest provision set forth in Uniform Guidance requirements in C.F.R. Title 2, Subtitle A, Chapter II, Part 200, Subpart D §200.318, Contractor shall maintain written standards of conduct governing the performance of its employees engaged in the award and administration of contracts. No employee, officer, or agent shall participate in the selection, award, or administration of a contract supported by Federal funds if a real or apparent conflict of interest would be involved. Such a conflict would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in the firm selected for an award. The officers, employees, and agents of Contractor shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, or parties to subagreements. However, Contractor may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct shall provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the recipient.

(Subsection for CDBG, ESG and HOPWA Contracts only) This subsection incorporates the conflict of interest provisions of the CDBG regulations (24 CFR 570.611), the ESG regulations (24 CFR 576.404) and the

HOPWA regulations (24 CFR 574.625) for the acquisition and disposition of real property and the provision of assistance by Contractor or subcontractors to individuals, businesses, and other entities under eligible activities.

1. No persons who (a) is an employee, agent, consultant, officer, or elected official or appointed official of City (including MOHCD/OEWD and the Citizens' Committee on Community Development), or of any designated public agencies, or of Contractor that is receiving CDBG/ESG/HOPWA funds and (b) exercises or has exercised any functions or responsibilities with respect to CDBG/ESG/HOPWA activities assisted under this part, or who is in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from a CDBG/ESG/HOPWA-assisted activity, or have a financial interest in any contract, subcontract, or agreement with respect to a CDBG/ESG/HOPWA-assisted activity, or with respect to the proceeds of the CDBG/ESG-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for one year thereafter.

2. In order to carry out the purposes of this Section, Contractor shall incorporate, or cause to be incorporated, in all contracts, subcontracts and agreements relating to activities assisted under this Agreement, a provision similar to that of this Section. Contractor shall be responsible for obtaining compliance with such provisions by the parties with whom it contracts and, in the event of a breach, shall take prompt and diligent action to cause the breach to be remedied and compliance to be restored.

3. Upon written request of Contractor, HUD may grant an exception to the provisions of this subsection on a case-by case basis when Contractor has satisfactorily met the threshold requirements, which include (i) a disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made; and (ii) an opinion of the City Attorney that the interest for which the exception is sought would not violate State or local law. In determining whether to grant a requested exception that has satisfactorily met the requirements, HUD shall conclude that such an exception will serve to further the purposes of the CDBG/ESG/HOPWA program and the effective and efficient administration of the Contractor's program or project, taking into account the cumulative effect of the following factors, as applicable:

- a. Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project that would otherwise not be available;
- b. Whether an opportunity was provided for open competitive bidding or negotiation;
- c. Whether the person affected is a member of a group or class of low- or moderate income persons intended to be the beneficiaries of the assisted activity, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;
- d. Whether the affected person has withdrawn from his or her functions or responsibilities, or the decision-making process with respect to the specific assisted activity in question;
- e. Whether the interest or benefit was present before the affected person was in a position as described in paragraph (1) of this Section;
- f. Whether undue hardship will result either to Contractor or the person affected when weighed against the public interest served by avoiding the prohibited conflict; and
- g. Any other relevant considerations.

Nondiscrimination; Equal Benefits; and Penalties. Federal Requirement – In the Work

Program and all contracts and subcontracts relating thereto, Contractor agrees to comply with the following laws and statutes relating to nondiscrimination: Titles VI and VII of the Civil Rights Act of 1964 (Pub. L. 88-352), Title VIII of the Civil Rights Act of 1968 (Pub. L. 90-284), Section 109 of the Housing and Community Development Act of 1974 (24 U.S.C. Section 5409), and Executive Order 11246, as amended by Executive Order 11375 and supplemented by Department of Labor regulations (41 C.F.R. Part 60) regarding equal employment opportunity.

1. Contractor agrees to post in conspicuous places available to employees and applicants for employment, to place in all solicitations or advertisements for employment, and to send to each labor union or representative of its employees, notices setting forth Contractor's nondiscriminatory practices as required hereunder.

2. Contractor shall allow MOHCD/OEWD and the Funding Source access to all of its books and records to ascertain compliance with this Section. In the event of Contractor's noncompliance with the nondiscrimination provisions of the Agreement, the Agreement may be canceled, terminated or suspended in whole or in part and Contractor may be declared ineligible for further government contracts.

3. Contractor shall include these nondiscrimination provisions in every subcontract or purchase order unless exempted by Executive Order 11246 so that this Section will be binding on each subcontractor or vendor. Contractor shall take such action with respect to the subcontractor or purchase order as MOHCD/OEWD and/or the Funding Source may direct to enforce such provisions, including sanctions.

4. Contractor certifies that it does not maintain nor provide for its employees any segregated facilities, and it does not permit its employees to perform services at any location where segregated facilities are maintained. As used herein, the term "segregated facilities" means any areas, which are segregated on the basis of race, creed, color or natural origin, because of habit, local custom or otherwise.

Additional Federal Requirements (Section for CDBG, ESG and HOPWA Contracts only)

A. Contractor agrees to abide by (i) 24 C.F.R. Part 570; and (ii) OMB Uniform Guidance requirements in 2 C.F.R. Part 200; as the same may be modified, supplanted or supplemented from time to time. Contractor acknowledges that it has reviewed each of the above documents, and will be responsible for ensuring its own compliance with the terms and conditions of these documents. MOHCD/OEWD will make available to Contractor additional copies of each of these documents at MOHCD/OEWD's offices.

B. Contractor agrees to comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act (which does not apply to ESG and HOPWA Contracts), the Safety Standards Act, the Copeland "Anti-Kickback" Act (40 U.S.C. Sections 276, 327-333) and all other federal, state and local laws and regulations pertaining to labor standards insofar as they apply to the performance of the Agreement.

C. If applicable under Title 24 of the Code of Federal Regulations ("C.F.R.") Part 135, Contractor agrees as follows:

1. To comply with the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u ("Section 3"). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low and moderate income persons, particularly persons who are recipients of HUD assistance for housing.

2. To comply with HUD's regulations 24 C.F.R. Part 135 (the "Part 135 Regulations"), which implement Section 3. As evidenced by their execution of the Agreement, the parties hereto certify that they are under no contractual obligation and they have no other impediment that would prevent them for complying with the Part 135 Regulations.

3. To send to each labor organization or representative of workers with which Contractor has a collective bargaining agreement or other similar understanding, if any, a notice advising the labor organization of workers representative of Contractor's commitments under Section 3, and will post copies of the notice in conspicuous places at all work sites where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, the availability of apprenticeship and training positions and the qualifications for each, the name and location of the person(s) taking applications for each of the positions, and the anticipated date the work shall begin.

4. To include a Section 3 clause similar to this Section 18.19 (C) in every subcontract subject to compliance with the Part 135 Regulations, and to take appropriate action upon finding that a subcontractor is in violation of the Part 135 Regulations. Contractor shall not subcontract with any subcontractor where Contractor has notice or knowledge that the subcontractor has been found in violation of the Part 135 Regulations.

5. To certify that any vacant employment positions, including training positions, that are filled
(1) after a Contractor is selected but before the contract is executed, and
(2) with persons other than those to whom the Part 135 Regulations require employment opportunities to be directed, were not filled to circumvent the Contractor's obligations under the Part 135 Regulations.

6. Contractor hereby acknowledges and agrees that noncompliance with the Part 135 Regulations may result in sanctions, termination of the Agreement (including termination of continued funding under the Agreement), and/or debarment or suspension from future HUD assisted contracts.

D. In the event Contractor receives any payment or reimbursement hereunder, which the Funding Source later disallows, Contractor shall promptly refund the disallowed amount to MOHCD/OEWD upon MOHCD/OEWD's request. At its option, MOHCD/OEWD may offset the amount disallowed from any future payment under this Agreement.

E. Contractor agrees to comply with the following requirements insofar as they apply to the performance of the Agreement: (a) the Clean Air Act (42 U.S.C. Sections 7401 et seq.); (b) Federal Water Pollution Control Act (33 U.S.C. Sections 1251 et seq.); (c) Environmental Protection Agency regulations pursuant to 40 C.F.R. Part 50; (d) Flood Disaster Protection Act of 1973 (42 U.S.C. Section 4001); (e) HUD's lead based paint regulations at 24 C.F.R. 570.608; and (f) the National Historic Preservation Act of 1966 (16 U.S.C. Section 470) and the procedures set forth in 36 C.F.R. Part 800 on the Historic Preservation Procedures for Protection of Historic Properties.

F. Contractor acknowledges the urgent need to prevent violence and create greater community awareness regarding the negative impact of violence of youth in our communities. Contractor is encouraged, where appropriate, to direct its MOHCD/OEWD-assisted activities to benefit youth and reduce violence. The Cranston-Gonzales National Affordable Housing Act requires that procedures be implemented to ensure confidentiality of records pertaining to any individual provided family violence prevention or treatment services under any project assisted under the ESG and that the address or location of any ESG-assisted family violence shelter shall not be made public without the prior written authorization of the person or persons responsible for the operation of such shelter.

Compliance with Lobbying Provisions (Section for CDBG, ESG and HOPWA Contracts only)

In addition to, and not in substitution for, other provisions of this Agreement regarding the provision of services with the Contract Funds, Contractor agrees to the following provisions pursuant to the Housing and Community Development Act of 1992:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of Contractor, 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 the awarding of any Federal contract, the making of any Federal contract, 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, Contractor will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. None of the funds, materials, property or services provided directly or indirectly under this Agreement shall be used for any partisan political activity, to further the election or defeat of any candidate for public office, or to support or defeat legislation pending before Congress.
4. Contractor will require that the language of this Section be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under contracts, loans, and cooperative agreements) and that all Contractors shall certify and disclose accordingly. This is a material representation of fact upon which reliance was placed when this Agreement was made.

TITLE 2 CFR ASSURANCE

Contractor assures Prime Recipient that it complies with the Code of Federal Regulations Title 2: Grants and Agreements PART 200, and that it will notify Prime Recipient of completion of required audits and of any adverse findings, which impact this subcontract.

DAVIS-BACON AND RELATED ACTS

If applicable, Contractor certifies that it complies with the Davis-Bacon act and warrants proper wages are applied to federally-funded or assisted construction projects.

ANTI-DISCRIMINATION / EQUAL OPPORTUNITY COMPLIANCE

This Contractor and subcontractor shall abide by the requirements of 41 CFR 60-1.4(a), 60-300.5(a), 60-741.5(a) and 29 CFR Part 471, Appendix A to Subpart A. These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. Moreover, these regulations require that covered prime Contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation.