

**Santee-Lynches Workforce Development Area
WIOA Terms and Conditions**

3.0 LEGAL AUTHORITY

- 3.0.1** The persons signing this Grant Agreement on behalf of the parties warrant and guarantee their full authorization to execute the Grant Agreement and to legally bind the parties to all terms, performance requirements, and provisions as set forth below.

3.1 AWARDING ENTITY

- 3.1.1** As the awarding entity, the Santee-Lynches Workforce Development Area (SLWDA), has the following oversight responsibilities:
- Providing technical assistance, as requested by the Grantee or deemed necessary by SLWDA;
 - Conducting programmatic and financial monitoring of the Grant project;
 - Ensuring compliance with WIOA Public Law 113-128 and implementing Federal regulations, the OMB Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR Part 200), as well as any other Federal or State laws, regulations and policies applicable to the Grant Agreement;
 - Disbursing funds to the Grantee to pay for allowable expenses or services provided in accordance with applicable State and Federal laws upon receipt of proper supporting documentation of disbursement amounts previously drawn down; and
 - Evaluating the Grantee against specific deliverables, performance, and reporting requirements as outlined in the Grant Agreement's Statement of Work.

3.2 FINANCIAL SYSTEM AND REPORTING

- 3.2.1** The Grantee is responsible for developing and implementing procedures and standards for reporting financial, programmatic, and customer information in the required timeframes and using the systems and formats specified by SLWDA. Documentation of these procedures shall be maintained by the Grantee for the duration of the grant until grant closeout.
- 3.2.2** The Grantee shall maintain fiscal records and supporting documentation for all expenditures of funds under the Grant Agreement. The Grantee must provide adequate, qualified staff to prepare required reports. Proper internal controls are required to ensure separation of duties.
- 3.2.3** Costs incurred by the Grantee prior to the start date specified in the Grant Agreement are incurred at the Grantee's own expense. Prior authorization for pre-award spending must be obtained from SLWDA and the US Department of Labor before any costs are incurred.

- 3.2.4 Payment by SLWDA of Indirect Costs incurred requires the Grantee to submit its approved Indirect Cost Rate or Acceptance of Certification of Indirect Costs from its cognizant agency upon receipt. If SLWDA is the cognizant agency for the grant recipient, an Indirect Cost Rate proposal must be submitted to SLWDA no later than 180 days after the June 30 fiscal year end. Failure to do so may result in the disallowance of indirect costs. SLWDA may either disallow all indirect costs or establish a rate based upon audited historical data or such other data that have been furnished to SLWDA for indirect costs. (2 CFR Part 200.415(b)(2))
- 3.2.5 The Grantee is required to submit a Financial Status Report (FSR) on a monthly basis, regardless of whether any expenditures have accrued during the month. Reports must be submitted no later than the 20th of the following month. Expenditure data is reported cumulatively through the end of each reporting period on an accrual basis.
- 3.2.6 A Request for Payment (RFP) must be submitted each time the Grantee wishes to draw down funds, along with proper supporting documentation of disbursements previously drawn down. The Grantee may be required by SLWDA to provide additional supporting documentation as outlined in the Grant Agreement's Statement of Work. The Grantee may request funds in advance to cover upcoming cash expenditures and accruals to be paid within a short period of receipt of funds (usually within three (3) business days). The Grantee's cash needs must be projected to ensure that funds are received as close as possible to the time of actual disbursement in accordance with 2 CFR Part 200.305. Cash on hand should be limited to the amount needed for immediate disbursement.
- 3.2.7 The Grantee will submit a complete Grant Closeout Report to SLWDA no later than forty-five (45) calendar days after the grant end date. SLWDA will supply the closeout forms and instructions prior to grant expiration.

3.3 RECORDKEEPING

- 3.3.1 SLWDA, and any of its authorized representatives, must have timely and reasonable access to all Grantee records and personnel related to the Grant Agreement for the purpose of inspection, investigation, monitoring, auditing, evaluation, interview, and discussion. Further, SLWDA and any of its authorized representatives, have the right to copy all records pertaining to the Grant Agreement.
- 3.3.2 The Grantee shall comply with requirements for custody and retention of records as set forth in 2 CFR Part 200, as applicable. Records must be retained for no less than three years after submittal of the Grant Agreement closeout to SLWDA or the last request for grant records during an audit, whichever is most recent. If any litigation, claim, or audit is started before the expiration of the 3-year period, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken (2 CFR Part 200.333).

3.3.3 The Grantee assures it will comply with Federal and State laws and guidelines for the handling and protection of Personally Identifiable Information, including but not limited to 2 CFR Part 200.79 and US Department of Labor Training and Employment Guidance Letter 39-11, *Guidance on the Handling and Protection of Personally Identifiable Information (PII)*, located at https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=7872.

3.3.4 The Grantee agrees to maintain the confidentiality of any information that identifies or may be used to identify any grant and benefit participants. The Grantee shall not disclose or re-disclose any employer or personally identifying information of the subject of the information unless permitted by law.

3.3.5 All releases of information shall be in accordance with State and Federal law, regulations and guidelines, including but not limited to S.C. Code Ann. § 41-29-160; the Family Privacy and Protection Act (S.C. Code Ann. § 30-2-10 et al), 20 CFR 603, and IRS Publication 1075.

3.4 PROCUREMENT

3.4.1 The Grantee must have written procedures for procurement transactions that comply with State regulations. Procedures may reflect applicable local laws and regulations, provided they conform to applicable Federal law and the standards identified in 2 CFR Parts 200.318 through 200.326.

3.4.2 Procurement standards must ensure fiscal accountability and prevent waste, fraud, and abuse. The Grantee will conduct procurement in a manner that provides full and open competition consistent with the standards of 2 C.F.R Part 200.319.

3.5 ADDITIONAL CONDITIONS AND ENFORCEMENT

3.5.1 The Grantee acknowledges and accepts that special additional conditions may be unilaterally imposed by SLWDA in accordance with 2 CFR 200.207. Such conditions may be imposed if the Grantee demonstrates one or more of the following conditions:

- a history of unsatisfactory performance;
- financial instability;
- management system(s) that do not meet standards prescribed in 2 CFR 200.300 et seq.;
- noncompliance with terms and conditions of previous Federal awards or subawards;
- absence of responsibility disclosed as a result of ongoing evaluation of risk by SLWDA conducted in accordance with 2 CFR 200.331(b);
- reports and findings from audits performed under 2 CFR Subpart F – Audit Requirements of this part or the reports and findings of any other available audits; and/or
- inability to effectively implement statutory, regulatory, or other requirements.

3.5.2 If SLWDA determines that a grant award will be made or continued, special provisions shall address the condition identified and shall be included in the award. Such provisions may include but are not limited to:

- requiring payments on a reimbursement basis;
- withholding authority to proceed to the next phase until receipt of evidence of acceptable performance within a given period of performance;
- requiring additional, more detailed financial reports;
- requiring additional project monitoring;
- requiring the Grantee to obtain technical or management assistance and to implement corrective actions; and/or
- establishing additional prior approval.

SLWDA will notify the Grantee regarding the nature and reason for implementing any of the above special provisions.

3.5.3 Failure to comply with any provision of the Grant Agreement, or any applicable law or regulation, may subject the Grantee to additional enforcement actions that are determined by SLWDA to be appropriate under the circumstances. Such enforcement actions include but may not be limited to:

- requiring special award provisions as stated above;
- temporarily withholding cash payments pending correction of identified deficiencies, as identified in 2 CFR 200.338;
- disallowing cost (and, if appropriate, applicable matching credit) for any claim or action made that is not in compliance and require appropriate repayment or financial adjustment;
- suspending the grant award, in whole or in part, pending corrective action;
- terminating the grant award, in whole or in part;
- withholding further awards for the project or program;
- recommending to appropriate Federal officials that suspension or debarment proceedings be initiated as authorized under 2 CFR 180; and/or
- taking other remedies that may be legally available. (See 2 CFR 200.338.)

3.5.4 The Grant Agreement may be immediately terminated by SLWDA in whole or in part for cause or noncompliance whenever such non-compliance is material and termination is in the best interest of the Grantee, SLWDA, or the US Department of Labor.

3.5.5 Appeals regarding monitoring findings and/or enforcement actions may be appealed as follows:

1. Within 14 days of receipt of the final monitoring determination or notice of enforcement action, a written appeal may be made to the Executive Director of SLWDA.
2. The Executive Director will issue a written decision within 30 days.
3. If dissatisfied with the decision, a written appeal may be made to the State Workforce Development Board (SWDB) within 14 days of receipt of decision.

4. The Chair will designate the Executive Committee or an Ad Hoc Committee of at least five SWDB members to hear the appeal.
5. The SWDB will hear the appeal and render a decision within 60 days.
6. The Grantee will be notified in writing of the SWDB's decision within 20 days.

3.5.6 Appeal requests made to the SWDB must be submitted in writing as follows:

South Carolina Department of Employment and Workforce
Attn: Appeals, State Workforce Development Board 1550
Gadsden Street
Columbia, SC 29201

3.6 CHANGES AND AMENDMENTS

- 3.6.1 Any alterations, additions, or deletions to the terms of the Grant Agreement which are required by changes in Federal or State law or regulations are automatically incorporated into the Grant Agreement without written amendment, and shall become effective on the date designated by such law or regulation.
- 3.6.2 Alterations, additions, deletions, or extensions to the terms of the Grant Agreement must be modified in writing and executed by both Parties. Any other attempted changes, including oral modifications, shall be invalid.
- 3.6.3 To ensure effective performance under the Grant Agreement, the Parties agree that SLWDA may amend requirements in writing during the grant period to interpret or clarify a change in Federal or State law, rules or regulations.

3.7 ASSURANCES

- 3.7.1 EQUAL OPPORTUNITY ASSURANCES: As a condition to the award of financial assistance from the US Department of Labor under Title I of WIOA, the Grantee assures that it is aware of and has the ability to comply with the nondiscrimination and equal opportunity provisions of the following laws and will remain in compliance for the duration of the award of federal financial assistance. These laws include, but are not limited to:
 - A. *Section 188 of the Workforce Innovation and Opportunity Act (WIOA)*, which prohibits discrimination against all individuals in the United States on the basis of race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, transgender status, and gender identity), national origin (including limited English proficiency), age, disability, or political affiliation or belief, or against beneficiaries on the basis of either citizenship status or participation in any WIOA Title I-financially assisted program or activity;

- B. *Title VI of the Civil Rights Act of 1964, as amended*, which prohibits discrimination on the bases of race, color, and national origin;
- C. *Title IX of the Education Amendments Act of 1972*, which prohibits discrimination on the basis of sex in educational programs;
- D. *Section 504 of the Rehabilitation Act*, which prohibits discrimination against qualified individuals with disabilities;
- E. *The Age Discrimination Act of 1975, as amended*, which prohibits discrimination on the basis of age; and
- F. *The South Carolina Pregnancy Accommodations Act*, which protects employees and applicants who have medical needs arising from pregnancy, childbirth, or related medical conditions.
- G. The Grantee also assures that, as a recipient of WIOA Title I financial assistance, it will comply with 29 CFR part 38 and all other regulations implementing the laws listed above. This assurance applies to the Grantee's operation of the WIOA Title I- financially assisted program or activity, and to all agreements the grant applicant makes to carry out the WIOA Title I-financially assisted program or activity. The Grantee understands that the United States has the right to seek judicial enforcement of this assurance.

3.7.2 ADDITIONAL ASSURANCES: The Grantee additionally assures that it is aware of and will comply with the following:

- A. *Jobs for Veterans Act (38 U.S.C. §4215)*, which requires recipients to provide priority of service to veterans and spouses of certain veterans for the receipt of employment, training, and placement services in any job training program directly funded, in whole or in part, by the US Department of Labor. To obtain priority of service, a veteran or spouse must meet the program's eligibility requirements. US Department of Labor Training and Employment Guidance Letter 10-09 provides further guidance and can be found at https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=2816;
- B. *P.L. 113-114, Division E, Title VII, Section 743*, which prohibits an entity receiving Federal funds from requiring employees or contractors of such entity seeking to report fraud, waste, or abuse to sign internal confidentiality agreements or statements prohibiting or otherwise restricting such employees or contractors from lawfully reporting such waste, fraud, or abuse to a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information;

- C. *P.L. 113-114, Division H, Title V, Section 505*, which establishes that when issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with Federal money, all recipients receiving Federal funds shall clearly state:
1. The percentage of the total costs of the program or project which will be financed with Federal money;
 2. The dollar amount of Federal funds for the project or program, and
 3. The percentage and dollar amount of the total costs of the project or program that will be financed by non-governmental sources.

The requirements of this part are separate from those in 2 CFR Part 200 and, when appropriate, both must be complied with.

- D. *Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency (LEP),"* which requires that recipients of Federal financial assistance ensure that programs and activities provided in English are accessible to LEP persons and thus do not discriminate on the basis of national origin;
- E. *Executive Order 13333*, which establishes this agreement may be terminated without penalty, if the Grantee or any subgrantee engages in: (i) severe forms of trafficking in persons; (ii) the procurement of a commercial sex act during the period of time that the grant is in effect; (iii) the use of forced labor in the performance of the grant; or (iv) acts that directly support or advance trafficking in persons. (22 U.S.C. §7104(g));
- F. *Buy American Notice Requirement*, which provides that in the case of any equipment or product that may be authorized to be purchased with financial assistance provided using funds available under WIOA, entities receiving the assistance should, in expending the assistance, purchase only American-made equipment and products, as required by the Buy American Act (41 U.S.C. §10a et seq.);
- G. *Executive Order 13043 Increasing Seat Belt Use in the United States (April 16, 1997)*, which provides that recipients of Federal funds are encouraged to adopt and enforce on-the-job seat belt policies and programs for their employees when operating vehicles, whether organizationally owned or rented or personally owned;
- H. *Executive Order 13513, Federal Leadership on Reducing Text Messaging While Driving (October 1, 2009)*, which provides that recipients of Federal funds are encouraged to adopt and enforce policies that ban text messaging while driving company-owned or rented vehicles, Government-owned, Government-leased, or Government-rented vehicles, or while driving privately-owned vehicles when on official Government business or when performing any work for or on behalf of the Government, and to conduct initiatives of the type described in section 3(a) of the Executive Order;

- I. *Special Requirements for Conferences and Conference Space.* Conferences sponsored in whole or in part by the recipient of Federal awards are allowable if the conference is necessary and reasonable for successful performance of the Federal Award. Recipients are urged to use discretion and judgment to ensure that all conference costs charged to the grant are appropriate and allowable. For more information on the requirements and allowability of costs associated with conferences, refer to 2 CFR Part 200.432;

3.8 CERTIFICATIONS

3.8.1 Lobbying (2 CFR §200.450)

- A. No federally appropriated funds have been paid or will be paid, by or on behalf of the Grantee, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative agreement.
- B. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the Grantee shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.

3.8.2 Debarment, Suspension, and Other Responsibility Matters

The Grantee agrees to comply with 2 CFR Part 200.213, which states that non-Federal entities and contractors are subject to the non-procurement and debarment and suspension regulations.

3.8.3 Drug-Free Workplace (Public Law 100-690)

The Grantee agrees to comply with provisions of 41 U.S.C. §702 in providing a drug-free workplace.