

PART 4.0 ASSURANCES AND CERTIFICATIONS

Section 1. Compliance with Law/Order of Precedence

In rendering performances hereunder, the Contractor shall comply with the requirements of any laws and regulations of any specific source(s) for the Contract, including, but not limited to, Texas Workforce Commission (TWC) rules and regulations; any revisions/amendments to such rules and regulations; and Board Plans. Such compliance shall be accomplished in such a manner so as to prevent or to correct any breach of the Board's Contract with the State of Texas to operate workforce programs and services under WIOA or any other specific funding source(s). In any event, the above laws and regulations shall supersede any conflicting or contradicting provisions of the Contract.

Section 2. Lobbying

This certification is required by the Federal Regulations, implementing § 1352 of the Program Fraud and Civil Remedies Act, 31 U.S.C. § 1352, for the Department of Agriculture (2 C.F.R. Part 418), Department of Labor (29 C.F.R. Part 93), Department of Education (34 C.F.R. Part 82), Department of Health and Human Services (45 C.F.R. Part 93).

The Contractor certifies that:

- 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 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;
- 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 Subrecipient shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions; and
- the Contractor shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts, and subcontracts, 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 § 1352, Title 31, U.S.C. Any person who fails to file the required declaration shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Section 3. Prevention and Reporting Fraud, Waste and Program Abuse

- A. Contractor shall establish and implement internal program management procedures sufficient to ensure that their employees, customers, and subcontractors are aware of TWC Fraud, Waste and Program Abuse Hotline and that Hotline posters are displayed to ensure maximum exposure to all persons associated with or having an interest in the programs or services provided under the Contract.
- B. Contractor is responsible for reporting to the Board, and the Board is responsible for reporting to TWC Office of Investigations, any knowledge of suspected fraud, waste, program abuse, possible illegal expenditures, unlawful activity, violations of law or TWC rules, policies and procedures.
- C. Contractor assures that it will perform the contracted activities in conformance with safeguards against fraud and abuse as set forth by the Board, Federal and State rules and regulation, TWC, WIOA and any other specific funding

source(s), and Regulations. Contractor agrees to notify the Board of suspected fraud, abuse, or other criminal activity through filing a written incident report within twenty-four (24) hours of knowledge thereof. Theft or willful damage to property on loan to the Contractor shall be reported to local law enforcement agencies within two (2) hours of discovery of any such act.

- D. Contractor agrees to cooperate fully with the Board, local law enforcement agencies, the State of Texas, U.S. Office of the Inspector General, the Federal Bureau of Investigation, and any other duly authorized investigative unit in carrying out a full investigation of all such incidents.
- E. Contractor shall ensure diligence in managing programs under the Contract including the carrying out of appropriate self-evaluation activities and in taking immediate corrective action against known violations of WIOA or any other specific funding source(s).

Section 4. Confidentiality of Records

Contractor shall maintain the confidentiality of any information, regarding program customers and the immediate family of any applicant or customer, that identifies or may be used to identify them and which may be obtained through application forms, interviews, tests, reports from public agencies or counselors, or any other source. Contractor shall not divulge such information without the written permission of the customer, except that such information which is necessary as determined by the Board for purposes related to the performance or evaluation of the Contract. In these cases, information may be divulged to the Board or such other parties as they may designate having responsibilities under the Contract for monitoring or evaluating the services and performances under the Contract, to parties enumerated in Part VI, Section 8, or to governmental authorities to the extent necessary for the proper administration of the law. All release of information shall be in accordance with applicable State laws, and policies of the Board. No release of information by Contractor, if such release is required by Federal or State law, shall be construed as a breach of this section. Notwithstanding any other provision of the Contract, the Contractor shall not release any personally identifiable information obtained from TWC Unemployment Insurance records or from WorkInTexas, unless otherwise authorized by the Board.

Section 5. Conflicts of Interests

Contractor hereby covenants and affirms that in administering the Contract, it will comply with the standards of conduct for maintaining the integrity of activities under the Contract and avoiding any conflict of interest. Every reasonable course of action will be taken by Contractor to maintain the integrity of the expenditures of public funds and to avoid any favoritism or questionable or improper conduct. The Contract will be administered in an impartial manner, free from personal, financial, or political gain. Contractor will avoid situations which give rise to a suggestion that any decision was influenced by prejudice, bias, special interest, or personal gain.

Section 6. Notices/Communication

- A. Any notice, request or demand required or permitted to be given hereunder by either party to the other shall be effected either by personal delivery in writing or by U.S. mail, courier service, or telecopier with applicable verification of date and time initiated, and delivered to the last registered address of either party. Such notice will be deemed to be legally effective irrespective of any change in location of either party.
- B. Mailed notices shall be addressed to the parties at the addresses appearing below, but each party may change its address by written notice in accordance with this section. Notices delivered personally shall be deemed communicated as of actual receipt. Mailed notices shall be deemed communicated as of three (3) days after mailing or upon verified receipt, whichever is earlier.

Section 7. Federal/State Obligations

It is expressly understood and agreed that neither the U.S. Department of Labor (DOL), nor TWC, are parties to the Contract and no legal liability shall attach to the part of the U.S. DOL or TWC by the expressed or implied terms and conditions of the Contract.

Section 8. Accessibility of Records

- A. Contractor shall comply with requirements for custody and retention of records as set forth in OMB UG, UGMS or TxGMS (as applicable), FMGC, or the grant.
- B. Contractor agrees to cooperate with TWC, and any of its authorized representatives, shall have timely and reasonable access to all Board records and personnel related to the Contract and any grant awarded to the Board under the Contract for the purpose of inspection, investigation, monitoring, auditing, evaluation, interview, and discussion.
- C. Such access shall grant access and the right to examine, copy, or mechanically reproduce all reports, books, papers, minutes, automated data systems, and other documents (collectively referred to as "records") pertaining to any grant awarded under the Contract from Monday through Friday, between the hours of 8:00 a.m. and 5:00 p.m. in the local time zone, excluding state or federal holidays. In the event of suspected fraud, malfeasance, or program abuse, Agency investigators may retain the original records and leave the mechanically reproduced copies in place of the original records.

Section 9. Drug-Free Workplace Rule

Contractor assures and guarantees that it shall comply with the Federal Regulations, implementing the Drug-Free Workplace Act of 1988, Pub. L. 100-690, §§ 5150-5160 (41 U.S.C. § 8101 *et seq.*; as amended); for the Department of Agriculture (2 C.F.R. Part 421), Department of Labor (29 C.F.R. Part 94), Department of Education (34 C.F.R. Part 86), and Department of Health and Human Services (2 C.F.R. Part 382).

Section 10. The Americans with Disabilities Act

Contractor assures and guarantees that it shall comply with the Americans with Disabilities Act (PL101-336) of 1990, with Equal Employment Opportunity Commission rules 29 CFR Parts 1602, 1627, and 1630, dated July 26, 1991, and with any subsequent rules and regulations issued under this Act and in accordance with 29 CFR §39.25.

Section 11. Debarment, Suspension, and Other Responsibility Matters

This certification is required by the Federal Regulations, implementing Executive Order 12549, Government-wide Debarment and Suspension, for the Department of Agriculture (2 C.F.R. Part 417), Department of Labor (2 C.F.R. Part 2998), Department of Education (2 C.F.R. Part 3485), and the Department of Health and Human Services (2 C.F.R. Part 376). The undersigned certifies that neither it nor its principals:

- A. Are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or Agency;
- B. Have, within a three-year period preceding Contract, been convicted of or had a civil judgment rendered against them for (a) commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction, (b) violation of Federal or State antitrust statutes, including those proscribing price fixing between competitors, allocation of customers between competitors and bid rigging, (c) commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims or obstruction of justice,

or (d) commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects the present responsibility;

- C. Are presently indicted for or otherwise criminally or civilly charged by a governmental entity with commission of any of the offenses enumerated in Subsection 2.2 of this Certification; and
- D. Have had, within a three-year period preceding this grant award, one or more public transactions terminated for cause or default.

Section 12. Restrictions on the Use of Certain Public Subsidies

Pursuant to Texas Government Code § 2264.051, a business that applies to receive a public subsidy from a state agency shall certify that the business, or a branch, division, or department of the business does not and will not knowingly employ an undocumented worker as defined in Texas Government Code § 2264.001(4).

The Contractor certifies that it does not knowingly employ an undocumented worker, as defined by Texas Government Code § 2264.051. The Contractor certifies that it shall establish and implement reasonable internal program management procedures sufficient to ensure its compliance with Texas Government Code § 2264.051. The Contractor certifies that it will enter into a written agreement with its sub-contractors working on or having an interest in the programs provided by this grant award regarding the unlawful employment of undocumented workers and of the penalties that the sub-contractors will incur if convicted of the unlawful employment of undocumented workers.

Texas Government Code § 2264.051 mandates that a business convicted of a violation under 8 U.S.C. § 1324a(f) (unlawful employment of undocumented workers), shall repay the amount of the public subsidy with interest not later than the 120th day after the entity is notified of the violation. TWC determined that if an entity is convicted of such a violation, the interest rate to be applied to the public subsidy is fifteen percent (15%). The Contractor can establish its own repayment interest rate when establishing an interest rate with any of its subrecipient subcontractors, but in no event shall such interest rate be less than the fifteen percent (15%) interest rate established by TWC.

The undersigned authorized representative understands and certifies that the following indicated statements are true and correct:

- that making a false statement is a material breach of contract and grounds for contract cancellation; and
- that after receiving a public subsidy, if the Grantee or its subrecipient subcontractor is convicted of a violation under 8 U.S.C. § 1324a(f), relating to the unlawful employment of undocumented workers, the Grantee shall repay the amount of the public subsidy with interest, at the rate of fifteen percent (15%).