**[,…CALIFORNIA DEPARTMENT OF REHABILITATION**

**Specialized Services Division**

**Older Individuals Who Are Blind (OIB) Program**

**Exhibit C: Standard Subgrant Provisions**

**Federal Title VII, Chapter 2**
**Independent Living Services for**

**Older Individuals Who Are Blind**

**Older Individuals who are Blind (OIB)**

**Exhibit C: Standard Subgrant Provisions**

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# EXHIBIT C: Standard Subgrant Provisions

# A. DEFINITION OF TERMS:

Pursuant to the authority of the Rehabilitation Act of 1973, as amended, Title VII, Chapter 2, Sections 751 –753 (29 U.S.C. §§ 796j – 796l), whereas for purposes of this grant, the term “older individual who is blind” means an individual age 55 or older whose severe visual impairment makes competitive employment extremely difficult to attain but for whom independent living goals are feasible, and pursuant to 752(i)(2)(A), of the Rehabilitation Act as amended and pursuant to the Vocational Rehabilitation Portion of the Unified State Plan, the following definitions shall be used:

1. Case Management:

Case Management is a collaborative process of assessment, evaluation, planning, coordination, and advocacy for options and services. Case management is comprehensively meeting consumer needs through communication, networking and utilizing available resources. Case management essential elements are consumer choice, safety, quality of services, and timely outcomes.

1. Grant:

A grant is a contract awarded through the request for application (RFA) process. A grant can be referred to in the following document as “grant”, “subgrant”, “agreement”, or “contract”.

1. OIB Consumer:

An older individual who is blind (OIB) Consumer is an individual age 55 or older whose significant visual impairment makes competitive employment extremely difficult to attain but for whom independent living goals are feasible.

1. Nonprofit subgrantee:

A nonprofit organization operating a program for the primary purpose of assisting persons aged 55 or older with visual disabilities to achieve social and economic independence by providing services in areas of: Low Vision Training, Adaptive Equipment/Assistive Technology, Orientation and Mobility, Communication Skills, Activities of Daily Living or Independent Living Skills, Self- Advocacy, Adjustment Counseling, Supportive Services, and Other services as deemed necessary.

1. Person with a Disability:

A person with a disability is an individual whose ability to function independently in family or community settings, or to engage or to continue in employment, is limited by their physical or mental disability; independent living services are required in order to enable them to achieve a greater level of independence in functioning in family, community, or engaging or continuing in employment.

1. Significant Visual Impairment:

A significant visual impairment, including low vision, is defined as a permanent and significant loss of visual function including either visual acuity, visual field, or both. A significant visual impairment cannot be corrected with conventional glasses, contact lenses, surgery, and/or medication.

# B. GENERAL PROVISIONS:

1. This subgrant shall enable Subgrantee to develop, continue, or expand in accordance with the program narrative, services and/or programs which shall enable individuals who are 55 and older who are blind or visually impaired to gain personal independence and function in the home or community.
2. This subgrant shall not become effective until both parties have signed to execute this agreement. Subgrantee's signature shall not be considered valid, until a certified copy of the Board Resolution authorizing the representative to execute the subgrant is placed on file with the State (Grantor)'s grant Officer.
3. Subgrantee agrees to a maximum 30-day start-up period for projects funded by this agreement. Subgrant-funded projects not underway within 30 days from the effective date of the subgrant may, at the Department's discretion, be cancelled and the funds redirected.
4. Grantor and/or Subgrantee reserves the right to terminate this Agreement upon thirty (30) days prior written notice.
5. Subgrantee shall comply with record retention requirements. All subgrant fiscal and consumer records must be retained for no less than three (3) years from the end of the subgrant year or from case closure for consumer records.
6. Subgrantee will abide by the conditions of the subgrants administered by the OIB Program of the Department of Rehabilitation.
7. Notwithstanding terms to the contrary, no provision of this subgrant shall be interpreted to authorize expenditures or reimbursement for items not in conformance with appropriate State or Federal guidelines, laws, or regulations.
8. Appropriate expenditure shall be made by the Subgrantee in accordance with the provision of this subgrant for staff salaries and benefits; for authorized operating expenses; and for the acquisition of equipment, as appropriate. Expenditures not specifically authorized shall not be reimbursed by the State.
9. Capital expenditures for buildings and land are unallowable. Capital expenditures for general purpose equipment may be allowed only with the prior written approval of DOR.
10. Subgrantee will comply with consumer and fiscal reporting requirements established by the State (Grantor) and DOR. Subgrantees are required to submit reports on the progress of the subgrant project as identified in the Request for Applications (RFA) and/or documents/provisions issued as part of the subgrant agreement.
11. Subgrantee will comply with performance improvement plan (PIP) and/or Corrective Action Plan (CAP) requirements established by DOR. A PIP will be implemented if a Subgrantee fails to serve at least 75% of the annual targeted number of consumers in the Subgrantee’s scope of work and/or fails to meet other requirements outlined in subgrant documents such as timely submission of invoices and/or reports.
12. It is mutually agreed that if sufficient funds are not appropriated for this program, this subgrant shall be invalid and of no further force or effect. In this event, the State shall have no liability to pay any funds whatsoever to the Subgrantee or to furnish any other considerations under this subgrant, and the Subgrantee shall not be obligated to continue to perform under the provisions of this subgrant.
13. Reasonable accommodations shall be provided by the Subgrantee to Subgrantee’s employees who are qualified individuals with a disability to perform the essential functions of the job.
14. For the purposes of this subgrant, case management as defined above, for consumers with an active plan is a minimum of 2 visits, other than intake or information and referral, and documented contact with the consumer at a minimum of every 60 days. Only individuals who meet these requirements can be counted as OIB consumers for reporting purposes.

# C. NOTIFICATION:

All notices required by either party shall be delivered through electronic media, sent by mail, or personally delivered to the appropriate address. Specific instructions will be provided on a case-by-case basis. Correspondence addresses may be changed by emailing OIBinfo@dor.ca.gov at which time it will be determined by the OIB Program Manager if further information or documentation is necessary.

# D. NOTIFICATION OF CLIENT ASSISTANCE PROGRAM:

The Subgrantee will notify individuals who seek or receive services from the subgrantee of the existence and availability of the Client Assistance Program (CAP), and how to contact a CAP advocate, pursuant to 34 C.F.R. section 367.68.

# E. CONFIDENTIALITY:

1. Subgrantee agrees that any report or material created during the performance of this agreement will not be released to any source except as required by this agreement or otherwise authorized by DOR.
2. Subgrantee agrees that any information obtained in the performance of this agreement is confidential and shall not be published or open to public inspection in any manner, except as authorized by DOR.
3. Subgrantee agrees to maintain the confidentiality of any information concerning any consumers that the Subgrantee may obtain in the performance of this agreement and specifically agrees to comply with the provisions applicable to such information as set forth in 34 C.F.R. section 361.38, California Code of Regulations, title 9, section 7140 et seq., and the Information Practices Act of 1977 (California Civil Code Section 1798 et seq.).
4. Subgrantee agrees to report any security breach or information security incident involving consumers’ personal information to the DOR’s OIB Program Manager and the DOR’s Information Security Officer. The DOR’s Information Security Officer can be contacted via e-mail at isoinfo@dor.ca.gov.
5. Security breaches or information security incidents that shall be reported include, but are not limited to:

a. Inappropriate use or unauthorized disclosure of consumers’ personal information by the subgrantee or the subgrantee’s assignees. Disclosure methods include, but are not limited to, electronic, paper, and verbal.

1. Unauthorized access to consumers’ personal information. Information can be held in medium that includes, but is not limited to, electronic and paper.
2. Loss or theft of information technology (IT) equipment, electronic devices/media, paper media, or data containing consumers’ personal information. IT equipment and electronic devices/media include, but are not limited to, computers (e.g., laptop and desktop, netbooks, tablets), smartphones, cell phones, CDs, DVDs, USB flash drives, servers, printers, peripherals, assistive technology devices (e.g., notetakers, videophones), and copiers. Data can be held in medium that includes, but is not limited to, electronic and paper.
3. Subgrantee agrees to provide annual security and privacy training for all individuals who have access to personal, confidential, or sensitive information relating to the performance of this agreement.
4. Subgrantee agrees to obtain and maintain acknowledgements from all individuals to evidence their understanding of the consequences of violating California privacy laws and the grantor’s information privacy and security policies.
5. For Subgrantees that do not have a security program that includes annual security and privacy training, a self-training manual is available on the DOR website under the “Providers” tab in the “Becoming a Service Provider" section under “Annual Security and Privacy Training for VR Service Providers.” The self-training manual is named “Protecting Privacy in State Government” and can be downloaded at the following link: <https://www.dor.ca.gov/Home/SecurityandPrivacy>.
6. Additional training and awareness tools are available at the California Office of Information Security (OIS) website and the California Office of Privacy Protection (COPP) website. The COPP created the self-training manual, “Protecting Privacy in State Government” that DOR revised to meet its business needs (see link above for DOR’s revision).

# F. REIMBURSEMENT AND INVOICE BILLING:

All expenditures shall be invoiced monthly, in arrears. All budget and reimbursement requests shall be submitted and prepared in accordance with instructions to be provided by DOR.

Reimbursement shall be made to subgrantee for authorized expenditures. Final invoices for reimbursement under this agreement shall be submitted no later than the final day of the month after the close of the annual funding period of this subgrant.

Federal and State funds are time limited, therefore, invoices (service and certified match) must be submitted as soon as possible. Final submission of all fiscal year-end invoices is due no later than October 31st, to allow for payment and draw down prior to the close out of Federal/State funds.

If budgetary funds revert due to failure to submit timely invoices or failure to submit a properly prepared invoice, related Federal and State funds will no longer be available for use which will require the Subgrantee to submit a claim through the Victims Compensation and Government Claims Board, where approval to pay is not guaranteed.

# G. RETURN OF INAPPROPRIATE USE OF FUNDS:

Subgrantee shall certify that in the event of funds used inappropriately, funds must be returned to DOR.

# H. STAFFING REQUIREMENTS:

Positions for personnel authorized to be hired under the terms of this subgrant shall be specified in the "Personnel Budget and Reimbursement Request," DR 339. No budgeted position will be reimbursed for services provided under this subgrant prior to the effective date of this subgrant.

# I. OPERATING EXPENDITURES:

Operating expenditures to be paid under the terms of this subgrant are itemized in the "Budget and Reimbursement Request," DR 337.

# J. EQUIPMENT:

1. Prior Authorization: Any single item, or multiple like-items, which exceed $2,500, must have prior authorization from DOR.
2. Major Equipment: For purposes of this agreement “major equipment” is defined as a nonexpendable, tangible personal property having a useful life of more than one year and a per unit acquisition cost which equals or exceeds the lesser of the capitalization level established by the Subgrantee for financial purposes, or $5,000. Equipment records must be maintained that include the description of the equipment, the serial number or other identification number, the source of equipment, the titleholder, the acquisition date, the cost of equipment, the location, and condition of the equipment, and any ultimate disposition data including the date of disposal and sale price of the equipment. A physical inventory of the equipment must be taken and the results reconciled with the equipment records at least once every two years.
3. Minor equipment: “Minor equipment” is defined as a nonexpendable, tangible personal property having a useful life of more than one year and an acquisition cost which equals or exceeds the lesser of the capitalization level established by the subgrantee for financial purposes, or below $5,000 or less per unit. The Subgrantee is required to maintain its own minor equipment inventory in case of audit.
4. Vesting: Title to all equipment purchased under the terms of this subgrant, shall vest with the State until such time as subGrantee disposes of the equipment or is otherwise relieved by the State from accountability for such major equipment.
5. Bid Requirements: subgrantees are required to use competitive bidding procedures involving at least two bidders for all equipment with a unit cost or a grouping of similar items for $1,000 or more.
6. Disposition of Equipment: Under no circumstances shall a piece of major equipment purchased under the terms of this subgrant be disposed of in any way without prior written authorization from the State Department of Rehabilitation.
7. Disposition of Real Property: Contact the OIB Program Manager before the transfer or disposal of any property in or on which subgrant funded modification of equipment attached to real property has occurred. Failure to meet this requirement could result in repayment of any subgrant funds used to alter, add to or improve any real property.

# K. SOFTWARE COPYRIGHT:

Subgrantee certifies that it has appropriate systems and controls in place to ensure that subgrant funds will not be used in the performance of this subgrant for the acquisition, operation or maintenance of computer software in violation of copyright laws.

# L. SUPPLIES:

Title to supplies and other expendable property shall vest in the Subgrantee upon acquisition. If there is a residual inventory of unused supplies exceeding $5,000 in total aggregate value upon termination or completion of this agreement, and the supplies are not being used for any other federally-sponsored program, the subgrantee shall retain the supplies for use on non-federal sponsored activities or sell them, but shall in either case compensate the state or federal government for its share.

# M. TRAVEL:

This section is applicable if travel and/or per diem expenses are reimbursed with subgrant funds.

Reimbursement for travel and/or per diem from the DOR under this agreement shall, unless otherwise specified in this agreement be at the rates currently in effect, as established by the California Department of Human Relations (CalHR) for non-represented state employees. If the rate changes during the term of this agreement, the rates shall apply upon their effective date and no amendment to this agreement shall be necessary.

The subgrantee shall maintain actual receipts for travel, including airfare, car rental and hotel accommodations.

Except without prior written authorization from DOR, no travel outside the State of California shall be reimbursed. Any request for out of state travel must be emailed to OIBinfo@dor.ca.gov and approved by the OIB Program Manager prior to travel.

# N. INSURANCE REQUIREMENTS:

1. Coverage Term: Coverage needs to be in force for the complete term of the subgrant. If insurance expires during the term of the subgrant, a new certificate must be received by the State at least ten (10) days prior to the expiration of this insurance. Any new insurance must still comply with the original terms of the subgrant.
2. Policy Cancellation or Termination & Notice of Non-Renewal: subgrantee is responsible to notify the State within five business days before the effective date of any cancellation, non-renewal, or material change that affects required insurance coverage. In the event subgrantee fails to keep in effect at all times the specified insurance coverage, the State may, in addition to any other remedies it may have, terminate this subgrant upon the occurrence of such event, subject to the provisions of this subgrant.
3. Deductible: Subgrantee is responsible for any deductible or self-insured retention contained within their insurance program.
4. Primary Clause: Any required insurance contained in this subgrant shall be primary, and not excess or contributory, to any other insurance carried by the State.
5. Insurance Carrier Required Rating: All insurance companies must carry a rating acceptable to the Office of Risk and Insurance Management. If the subgrantee is self-insured for a portion or all of its insurance, review of financial information including a letter of credit may be required.
6. Endorsements: Any required endorsements requested by the State must be physically attached to all requested certificates of insurance and not substituted by referring to such coverage on the certificate of insurance.
7. Inadequate Insurance: Inadequate or lack of insurance does not negate the subgrantee obligations under the subgrant.
8. Satisfying an SIR: All insurance required by this subgrant must allow the State to pay and/or act as the subgrantee’s agent in satisfying any self-insured retention (SIR). The choice to pay and/or act as the subgrantee’s agent in satisfying any SIR is at the State’s discretion.
9. Available Coverages/Limits: All coverage and limits available to the subgrantee shall also be available and applicable to the State.
10. Sub-Subgrantees: In the case of utilization of sub-subgrantees to complete the agreed upon scope of work, Subgrantee shall include all sub-subgrantees as insureds under Subgrantee’s insurance or supply evidence of insurance to DOR equal to policies, coverages and limits required of Subgrantee.

General Liability:

Subgrantee’s liability shall be primary and non-contributory over any other valid or collectible insurance and self-insurance. Subgrantee shall maintain general liability on an occurrence form with limits not less than $1,000,000 per occurrence for bodily injury and property damage liability combined with a $2,000,000 annual policy aggregate. The policy shall include coverage for liabilities arising out of premises, operations, independent contractors, products, completed operations, personal & advertising injury, and liability assumed under an insured Agreement. This insurance shall apply separately to each insured against whom claim is made or suit is brought subject to the subgrantee’s limit of liability. The policy must include:

*The State of California, its officers, agents, and employees as additional insured, but only with respect to work performed under the Agreement. (See exact language to be included below)*

Endorsements must be physically attached to all requested certificates of insurance and not substituted by referring to such coverage on the certificate of insurance. The endorsement must be acceptable to the DGS Office of Risk and Insurance Management.

The following provisions must be on the insurance certificate (word for word):

“The State of California, its officers, employees, agents and servants, are included as additional insured but only insofar as operations under the contract are concerned”;

“The State of California is not responsible for premiums or assessments on the policy”; and,

“Cancellation of this insurance will not be effective until thirty (30) days following receipt of written cancellation notice to the State of California, Department of Rehabilitation, 721 Capitol Mall, 6th Floor, Sacramento, CA 95814.”

1. Automobile Liability:

**(If Applicable)** – For consumers being provided transportation under said Agreement, the Subgrantee shall maintain motor vehicle liability with limits not less than $1,000,000 combined single limit per accident. Such insurance shall cover liability arising out of a motor vehicle including owned, hired and non-owned motor vehicles to include the following additional insurance coverage below:

For non-profit organizations:

Automobile Liability insurance must include Any-Auto, Hired-Autos, Non-Owned Autos, and any other auto used in performing services under the Agreement. For seating capacity of up to 15 people (includes driver) the certificate of insurance shall state a limit of liability of not less than $1,000,000 per occurrence for bodily injury and property damage liability combined. For seating capacity for 16 passengers or more the certificate of insurance shall state a limit of liability of not less than $5,000,000 per occurrence for bodily injury and property damage liability combined.

The same additional insured designation and endorsement required for general liability is to be provided for this coverage.

1. Workers’ Compensation and Employers Liability:

Subgrantee shall maintain statutory worker’s’ compensation and employer’s liability coverage for all its employees who will be engaged in the performance of the Agreement. Employer’s liability limits of $1,000,000 are required.

The workers’ compensation policy shall contain a waiver of subrogation in favor of the State. The waiver of subrogation endorsement shall be provided.

1. Self-insurance:

Subgrantee shall supply the consent letter of self-insurance or the Certificate of Consent to Self-Insure. The Waiver of Subrogation is not required.

# O. USE OF SUB-SUBGRANTEE(S):

If the Subgrantee desires to accomplish part of the services through the use of one (1) or more sub-subgrantees, the following conditions must be met:

1. The Subgrantee shall submit any sub-subgrantees to the State for approval prior to starting any of the work;
2. The Agreement between the Subgrantee and the sub-subgrantee must be in writing;
3. The Subgrantee must include specific language which establishes the rights of the auditors of the State to examine the records of the sub-subgrantee relative to the services and materials provided under the Agreement,; and
4. Upon termination of any sub-subgrantee, the State shall be notified immediately, in writing.
5. Further, any sub-subgrant in excess of $100,000 entered into as a result of this Agreement shall contain all applicable provisions stipulated in this Agreement.

# P. POTENTIAL SUB-SUBGRANTEE(S):

Nothing contained in this Agreement or otherwise shall create any contractual relation between the State and any sub-subgrantee(s) and no sub-subgrant shall relieve the primary Subgrantee of its responsibilities and obligations hereunder. The subgrantee agrees to be as fully responsible to the State for the acts and omissions of its sub-subgrantee(s) and of persons directly employed or indirectly employed by any of them, as it is for the acts and omissions of persons directly employed by the Subgrantee. The Subgrantee’s obligation to pay its sub-subgrantee(s) is an independent obligation from the State’s obligation to make payments to the Subgrantee. As a result, the State shall have no obligation to pay or to enforce the payment of any monies to any sub-subgrantee.

# Q. COMPETITIVE BIDDING AND PROCUREMENTS:

1. Subgrantee shall comply with applicable laws and regulations regarding securing competitive bids and undertaking negotiations in Subgrantee’s contracts with other entities for acquisition of goods and services with funds provided by the State or Federal government under this agreement.
2. Subgrantees must maintain a copy or narrative description of the procurement systems, guidelines, rules or regulations that will be used to make purchases under this agreement. The State reserves the right to request a copy of these documents and to inspect the purchasing practices of the Subgrantee at any time.
3. Unless waived or otherwise stipulated in writing by DOR, prior written authorization from the OIB Program Manager will be required before the Subgrantee will be reimbursed for any purchase of $2,500 or more for commodities, supplies, equipment, and services related to such purchases. The Subgrantee must provide in its request for authorization all particulars necessary, as specified by DOR for evaluating the necessity or desirability of incurring such costs.
4. For all purchases made subject to this agreement, the Subgrantee must maintain copies of all paid vendor invoices, documents, bids and other information used in vendor selection, for inspection or audit for no less than three (3) years from the close of the subgrant year.

# R. DETERMINING ALLOWABLE COSTS AND CHARGEABLE PERSONNEL ACTIVITY:

# S. ANNUAL AUDIT:

* 1. The Subgrantee shall submit to the State such reports, accounts, and records deemed necessary by the State to discharge its obligation under State and Federal laws and regulations, including the applicable 2 C.F.R. part 200 regulations.
	2. Subgrantee agrees to comply with all laws, regulations, ordinances, and policies of any governmental unit having jurisdiction over the rehabilitation program with regards to construction, medicine, health, safety, wages, hours, working conditions, workers’ compensation, licensing and all other activities requiring compliance. Subgrantee shall accept financial responsibilities in the event of non-compliance.
	3. Subgrantee shall provide DOR's staff access to all Subgrantee records and evaluations of individuals referred to the program.
	4. The DOR shall have the right to conduct inspections, reviews, and/or audits of the Subgrantee to determine whether the services provided, and the expenditures invoiced by the Subgrantee and/or sub-subgrantee were in compliance with this agreement and other applicable federal or state statutes and regulations.
	5. Subgrantee agrees that Department of Rehabilitation, State Controller's Office, Department of General Services, Bureau of State Audits, Federal Department of Education Auditors, or their designated representatives shall have the right to review and to copy any records and supporting documentation pertaining to the performance of the agreement, including such books, records, accounts, consumer service records, and other supporting documentation that may be relevant to the audit or investigation.
	6. Subgrantee agrees to include a provision in its independent auditor agreement that allows DOR, when conducting an audit, access to any audit materials, information, and reports in support of the Subgrantee’s “Independent Auditor Report”.
	7. Subgrantee agrees to maintain such records for possible audit for a minimum of three (3) years after final payment or until resolution of all issues which may arise as a result of any litigation, claim, negotiation, audit, or any other action involving the records prior to expiration of the three (3) year period whichever is later. Subgrantee agrees to allow the auditors access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records.
	8. Requirement for Subgrantees that expend $750,000 or more in federal awards beginning the first fiscal year after December 26, 2014. Note: “Federal awards” means federal funding that originated directly from the federal government, or pass-through entity (i.e. state or local government agency).
	9. Single Audit or Program Specific Audit

A non-Federal entity that expends $750,000 or more during the non-Federal entity’s fiscal year in Federal awards must have a single or program-specific audit conducted for that year in accordance with the provisions of 2 CFR 200, Subpart F (commencing with section 200.500).

Subgrantees must:

* Procure and arrange for the audit and ensure it is properly performed.
* Prepare and provide the appropriate financial statements.
* Respond to findings and prepare corrective action.
* Provide the auditor with access to all records required to perform the audit.

Subgrantee agrees to submit one copy of the audit report and all management letters to:

Department of Rehabilitation

721 Capitol Mall, 4th Floor

Sacramento, CA 95814

ATTN: OIB Program Manager

Per 2 CFR 200, Subpart F: Audit Requirements:(1) The audit must be completed and the data collection form described in paragraph (b) of this section and reporting package described in paragraph (c) of this section must be submitted within the earlier of 30 calendar days after receipt of the auditor's report(s), or nine months after the end of the audit period. If the due date falls on a Saturday, Sunday, or Federal holiday, the reporting package is due the next business day.

Subgrantee also agrees to submit one copy of the audit report and all management letters to:

Department of Rehabilitation,

721 Capitol Mall,

Sacramento, CA 95814,

ATTN: Chief, Audit Section

Per 2 CFR 200, Subpart F: Audit Requirements:(1) The audit must be completed and the data collection form described in paragraph (b) of this section and reporting package described in paragraph (c) of this section must be submitted within the earlier of 30 calendar days after receipt of the auditor's report(s), or nine months after the end of the audit period. If the due date falls on a Saturday, Sunday, or Federal holiday, the reporting package is due the next business day.

* 1. Requirements for Subgrantees that expend **less** than $750,000 in federal awards beginning the first fiscal year after December 26, 2014.

* 1. Independent Audit

Subgrantees that do not meet the threshold for a single audit may choose to obtain an annual independent audit. For Subgrantees that obtain an independent audit, the audit report contains an independent examination of the subgrantee’s financial records by a licensed certified public accountant to include the following:

* Statement of Financial Position
* Statement of Activities
* Statement of Cash Flows
* Statement of Functional Expenses
* Notes to the Financial Statements

Grantee agrees to submit one copy of the independent audit report to:

Department of Rehabilitation

721 Capitol Mall, 4th Floor

Sacramento, CA 95814

ATTN: OIB Program Manager

Must be submitted within the earlier of 30 calendar days after receipt of the independent auditor's report(s), or nine months after the end of the audit period.

# T. STATE INDEMNIFICATION:

The subgrantee agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all subgrantees, sub-subgrantees, material men, laborers and any other person, firm or corporation furnishing or supplying work, services, materials or supplies in connection with the performance of this subgrant and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by the subgrantee in the performance of this subgrant.

# U. NONDISCRIMINATION CLAUSES:

During the performance of this subgrant, subgrantee and sub-subgrantees must comply with Title IX of the Education Amendments Act of 1972 (20 U.S.C. § 1681) (Title IX), which prohibits discrimination on the basis of sex, including sexual orientation, gender identity, sexual harassment, and sexual violence, such as rape, sexual assault, sexual battery, and sexual coercion, in education programs and activities receiving or benefitting from federal financial assistance. (34 C.F.R. part 106.)

During the performance of this subgrant, subgrantee and sub-subgrantees must comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000a through 2000d-4), and its implementing regulations (34 C.F.R. part 100), which prohibit discrimination on the basis of race, color, or national origin.

During the performance of this subgrant, subgrantee and sub-subgrantees must comply with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), and its implementing regulations (34 C.F.R. part 104), which prohibit discrimination on the basis of disability.

During the performance of this subgrant, subgrantee and sub-subgrantees must comply with The Age Discrimination Act (42 U.S.C. 6101 et seq.), and its implementing regulations (34 C.F.R. part 110), which prohibit discrimination on the basis of age.

During the performance of this subgrant, subgrantee and its sub-subgrantees shall not deny the subgrant’s benefits to any person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, nor shall they discriminate unlawfully against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. Subgrantee shall insure that the evaluation and treatment of employees and applicants for employment are free of such discrimination. Subgrantee and sub-subgrantees shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code § 12900 et seq.), the regulations promulgated thereunder (Cal. Code Regs., tit. 2, § 11000 et seq.), the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (Gov. Code §§ 11135-11139.5), and the regulations or standards adopted by the awarding state agency to implement such article. Subgrantee shall permit access by representatives of the Department of Fair Employment and Housing and the awarding state agency upon reasonable notice at any time during the normal business hours, but in no case less than 24 hours’ notice, to such of its books, records, accounts, and all other sources of information and its facilities as said Department or Agency shall require to ascertain compliance with this clause. Subgrantee and its sub-subgrantees shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement. (See Cal. Code Regs., tit. 2, § 11105.)

The Subgrantee shall include the nondiscrimination and compliance provisions of these clauses in all sub-subgrants to perform work under the subgrant.

# V. AMERICANS WITH DISABILITIES ACT (ADA):

By signing this Subgrant, subgrantee agrees to comply with the Americans with Disabilities Act (ADA) of 1990, as amended (42 U.S.C. Section 12101 et seq.), Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. Section 794), and Government Code Section 11135 et seq., which prohibit discrimination on the basis of disability, as well as the regulations which implement these statutes. Subgrantee specifically understands and agrees that by entering into this agreement it is obligated to comply with Title II of the ADA where the obligations imposed by Title II are more stringent than the Subgrantee’s obligations otherwise would be under Title I or Title III of the ADA.

# W. DRUG FREE WORKPLACE:

By signing this Subgrant, the Subgrantee hereby certifies, under penalty of perjury under the laws of the State of California, that the Subgrantee will comply with the requirements of the Drug-Free Workplace Act of 1990 (Government Code Section 8350 et seq.), and will provide a drug-free workplace by taking the following actions, as required by 41 U.S.C. §§ 8103:

* Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the subgrantee’s workplace and specifying actions to be taken against employees for violation of such prohibition;
* Establishing an ongoing drug-free awareness program to inform employees about:
	1. The dangers of drug abuse in the workplace;
	2. The subgrantee’s policy of maintaining a drug-free workplace;
	3. Any available drug counseling, rehabilitation, and employee assistance programs; and
	4. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
* Making it a requirement that each employee to be engaged in the performance of the subgrant be given a copy of the statement required by paragraph (1), above;
* Notifying the employee in the statement required by paragraph (1), that as a condition of employment under the subgrant, the employee will:
1. Abide by the terms of the statement; and,
2. Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;
* Notifying the agency in writing, within ten calendar days after receiving notice of a conviction for a violation occurring in the workplace from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee, on whose subgrant activity the convicted employee was working, unless the granting agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected subgrant.
* Taking one of the following actions, within 30 calendar days of receiving notice of a conviction for a violation occurring in the workplace, with respect to any employee who is so convicted:
	1. Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or,
	2. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;
* Making a good faith effort to continue to maintain a drug-free workplace through implementation of these paragraphs above.

Failure to comply with these requirements may result in suspension of payments under the subgrant or termination of the subgrant or both and the Subgrantee may be ineligible for award of any future state grants, subgrants, and/or contracts if the department determines that any of the following has occurred: (1) the Subgrantee has made false certification, or (2) violates the certification by failing to carry out the requirements as noted above.

# X. LOBBYING:

Subgrantee certifies to abide by the following regulations and requirements:

* Byrd Anti-Lobbying Amendment. By signing this agreement, the subgrantee who is awarded an agreement of $100,000 or more certifies 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, subgrant, or any other award covered by 31 U.S.C. 1352. Subgrantee shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award.
* 2 CFR section 200.450 Lobbying regulations, which can be found online at:

<https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-E/subject-group-ECFRed1f39f9b3d4e72/section-200.450>.

#  Y FRAUD AWARENESS TRAINING:

The Subgrantee or sub-subgrantee that has their employees or any individuals performing activities related to this subgrant shall have their employees or other individuals review the "Fraud Awareness Overview" no later than 30 days upon the subgrant award. Subgrantee shall retain documentation of employee participation. The Fraud Awareness Overview maybe viewed at the following internet site: <https://dor.ca.gov/Home/ContractGrantSolicitations>

# Z. PROHIBITION ON TAX DELINQUENCY:

Any Agreement that a state agency enters into after July 1, 2012, is void if the subgrant is between a state agency and a Subgrantee, or Sub-subgrantee, whose name appears on either list of the 500 largest tax delinquencies pursuant to Section 7063 or 19195 of the Revenue and Taxation Code. In accordance with Public Contract Code Section 10295.4, agencies are required to cancel Agreements with entities that appear on either list.

(Franchise Tax Board) <https://www.ftb.ca.gov/about-ftb/newsroom/top-500-past-due-balances/corporate-income-tax-list.html>,

(Board of Equalization) <http://www.cdtfa.ca.gov/taxes-and-fees/top500.htm>

# AA. FEDERAL REQUIREMENTS:

A copy of the OMB Circulars listed above are available for download and review on the Internet at:

<https://www.whitehouse.gov/omb/information-for-agencies/circulars/>

A copy of 34 C.F.R. part 367 is available at: <https://ecfr.io/Title-34/cfr367_main>. A copy of 2 C.F.R. part 200 is available at: <https://ecfr.io/Title-2/Part-200>. The subgrantee shall comply with these Circulars and regulations.

# AB. NONPROCUREMENT SUSPENSION AND DEBARMENT

This subgrant is a covered transaction for purposes of 2

C.F.R. part 1200. As such, subgrantees are required to comply with applicable provisions of Executive Orders Nos. 12549 and 12689; and “Debarment and Suspension,” 31 U.S.C. section 6101 note; which adopt and supplement the provisions of U.S. Office of Management and Budget (U.S. OMB) “Guidelines to Agencies on Government-wide Debarment and Suspension (Non-procurement),” 2 C.F.R. part 180.

The subgrantee’s signature on the DR 336A must also constitute a certification under penalty of perjury under the laws of the State of California that the subgrantee or any person associated therewith in the capacity of owner, partner, director, officer or manager:

* Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency;
* Have not had one or more public transactions (federal, state, or local) terminated within the preceding three years for cause or default;
* Has not been convicted within the preceding three years of any of the offenses listed in 2 C.F.R. section 180.800(a) or had a civil judgment rendered against it for one of those offenses within that time period; and,
* Are not presently indicted for or otherwise criminally or civilly charged by a government entity (federal, state or local) with commission of any of the offenses listed in 2 C.F.R. section 180.800.

Should the subgrantee become excluded or disqualified as defined in this section during the life of the Subgrant, the subgrantee must immediately inform the DOR of this exclusion or disqualification.

# AC. DARFUR CONTRACTING ACT:

By agreeing to this subgrant, pursuant to Public Contract Code section 10478, the subgrantee does not currently nor has within the previous three years had business activities or other operations outside of the United States and certifies that it is not a “scrutinized” company as defined in Public Contract Code section 10476.

# AD. SPECIFIC LEGISLATION AFFECTING SUBGRANT:

As applicable, Subgrantee shall comply with the following:

Executive Order 11246 - "Equal Employment Opportunity" as amended by Executive Orders 11375, 11478, and 13672, and as supplemented in Department of Labor regulations (41 CFR part 60)

Copeland "Anti-Kick-Back Act" (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR part 3)

Davis-Bacon Act (40 U.S.C. 3141-3147) as supplemented by Department of Labor regulations (29 CFR part 5)

Contract Work Hours and Safety Standards Act (40 U.S.C. 3701 - 3708) and Department of Labor supplementing regulation (29 CFR parts 5 and 1926)

Subgrantee shall report to the Grantor all suspected or reported violations of the above regulations. Copies of these documents are on file at the Grantor's office and may be inspected by appointment.

# AE. CALIFORNIA GENERAL TERMS AND CONDITIONS:

1. ASSIGNMENT: This Agreement is not assignable by the Subgrantee, either in whole or in part, without the consent of the State in the form of a formal written amendment.
2. DISPUTES: Subgrantee shall continue with the responsibilities under this Agreement during any dispute.
3. CHILD SUPPORT COMPLIANCE ACT: For any Agreement in excess of $100,000, the subgrantee acknowledges in accordance with Public Contract Code 7110, that:
4. The Subgrantee recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and
5. The Subgrantee, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.
6. UNENFORCEABLE PROVISION: In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby.
7. NATIONAL LABOR RELATIONS BOARD CERTIFICATION: Subgrantee certifies that no more than one (1) final unappealable finding of contempt of court by a Federal court has been issued against Subgrantee within the immediately preceding two-year period because of Subgrantee's failure to comply with an order of a Federal court, which orders Subgrantee to comply with an order of the National Labor Relations Board. (Pub. Contract Code §10296) (Not applicable to public entities.)
8. SUBGRANTEE NAME CHANGE: An amendment is required to change the Subgrantee's name as listed on this Agreement. Upon receipt of legal documentation of the name change the State will process the amendment. Payment of invoices presented with a new name cannot be paid prior to approval of said amendment
9. CONFLICT OF INTEREST – NON-PROFIT ENTITIES:
	1. Subgrantee certifies that its employees and the officers of its governing body shall avoid any actual or potential conflicts of interest, and that no officer or employee who exercises any functions or responsibilities in connection with this subgrant shall have any personal financial interest or benefit which either directly or indirectly arises from this subgrant.
	2. Subgrantee shall establish safeguards to prohibit its employees or its officers from using their positions for a purpose which could result in private gain or which give the appearance of being motivated for private gain for themselves or others, particularly those with whom they have family, business, or other ties.
10. CORPORATE QUALIFICATIONS TO DO BUSINESS IN CALIFORNIA:

a. When agreements are to be performed in the state by corporations, the contracting agencies will be verifying that the contractor is currently qualified to do business in California in order to ensure that all obligations due to the state are fulfilled.

b. "Doing business" is defined in Revenue and Taxation Code section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit. Although there are some statutory exceptions to taxation, rarely will a corporate contractor performing within the state not be subject to the franchise tax.