

**SECTION 1. PARTIES TO THE CONTRACT**

This contract is made by and between the Texas Department of Housing and Community Affairs, an agency of the State of Texas, (herein the "Department") and [Hidalgo County Community Services Agency](#) (herein the "Subrecipient").

**SECTION 2. CONTRACT PERIOD**

This contract shall commence on [January 01, 2009](#), and, unless earlier terminated, shall end on [December 31, 2009](#) (herein the "Contract Period").

**SECTION 3. SUBRECIPIENT PERFORMANCE**

A. Pursuant to the Community Services Block Grant Act, 42 U.S.C. §9901 et seq. (herein the "CSBG Act"), Subrecipient shall operate, on an equitable basis throughout Subrecipient's service area, a program to ameliorate the causes of poverty. Subrecipient shall provide services and activities of the type specified in 42 U.S.C. §9907(b). Subrecipient's service area consists of the following counties:

[HIDALGO](#)

**SECTION 4. DEPARTMENT OBLIGATIONS**

A. Measure of Liability

In consideration of Subrecipient's satisfactory performance of this contract, as determined by Department, Department shall be liable for actual and reasonable costs incurred by Subrecipient during the contract period for performances rendered under this contract, subject to the limitations set forth in this Section 4.

- (1) Department's obligations under this Section are contingent upon the actual receipt by Department of funds from the U.S. Department of Health and Human Services (hereinafter "HHS"). If adequate funds are not available to make payments under this contract, Department shall terminate this contract and shall not be liable for failure to make payments hereunder.
- (2) Department is not liable to Subrecipient for any cost incurred by Subrecipient which:
  - a. is subject to reimbursement by a source other than Department;
  - b. is for the performance of services or activities not authorized by 42 U.S.C. §9907(b), is for one of the activities prohibited in 42 U.S.C. §9918, or which is not in accordance with the terms of this contract;
  - c. is not reported to Department on CSBG Monthly Expenditure Report within sixty (60) days following the termination of this contract;
  - d. is not incurred during the Contract period;
  - e. is incurred for the purchase or permanent improvement of real property.

**B. Excess Payments**

Subrecipient shall refund, within fifteen (15) days after Department's request, any sum of money paid to Subrecipient by Department which Department determines (1) has resulted in an overpayment to Subrecipient or (2) has not been spent strictly in accordance with the terms of this contract. Department may offset or withhold any amounts otherwise owed to Subrecipient under this contract against any amount owed by Subrecipient to Department arising under this contract.

**C. Limits of Liability**

Notwithstanding any other provision of this contract, the total of all payments and other obligations incurred by Department under this contract shall not exceed the sum of **\$406,943.00**

**SECTION 5. METHOD OF PAYMENT/CASH BALANCES**

- A. Each month Subrecipient may request an advance payment by submitting to Department at its offices in Travis County, Texas, no later than the twentieth (20th) day of the month prior to the month for which payment is sought, a properly completed CSBG Monthly Expenditure Report for an amount not to exceed Subrecipient's actual cash needs for the month for which such advance is sought.
- B. Subrecipient's requests for advances shall be limited to the minimum amounts needed for the effective performance of this contract, and shall be timed as closely as possible with Subrecipient's actual immediate cash requirements. Subrecipient shall establish procedures to minimize the time elapsing between the transfer of funds from Department to Subrecipient and the disbursal of such funds by Subrecipient.
- C. Department may use a cost reimbursement method of payment if (1) Department determines that Subrecipient has maintained cash balances in excess of need, (2) Department identifies any deficiency in the cash controls or financial management system used by Subrecipient, or (3) Subrecipient fails to comply with the reporting requirements of Section 11.
- D. All funds paid to Subrecipient pursuant to this contract are paid in trust for the exclusive benefit of the low-income population of Subrecipient's service area and for the payment of allowable administrative expenses.

**SECTION 6. COST PRINCIPLES AND ADMINISTRATIVE REQUIREMENTS**

- A. Except as expressly modified by law or the terms of this contract, Subrecipient shall comply with the cost principles and uniform administrative requirements set forth in the Uniform Grant Management Standards, 1 T.A.C. §5.141 et seq. (herein "Uniform Grant Management Standards"). All references therein to "local government" shall be construed to mean Subrecipient.
- B. None of the costs described in Attachment C of OMB Circular No. A-87, as modified by the Uniform Grant Management Standards, shall be allowable unless Subrecipient has obtained Department's prior written approval to incur such cost.
- C. Use of Alcoholic Beverages. None of the funds provided under this contract shall be used for the payment of salaries to any employee who uses alcoholic beverages while on active duty. No funds provided under this contract for travel expenses shall be used for the purchase of alcoholic beverages.

## **SECTION 7. TERMINATION AND SUSPENSION**

- A. Department may terminate this contract, in whole or in part, at any time Department determines that there is cause for termination. Cause for termination includes, but is not limited to Subrecipient's failure to comply with any term of this contract. Department shall notify Subrecipient in writing at least thirty (30) days before the date of termination.
- B. Nothing in this Section shall be construed to limit Department's authority to withhold payment and immediately suspend this contract if Department identifies possible instances of fraud, abuse, waste, fiscal mismanagement, or other deficiencies in Subrecipient's performance. Suspension shall be a temporary measure pending either corrective action by Subrecipient or a decision by Department to terminate this contract.
- C. Notwithstanding any exercise by Department of its right of termination or suspension, Subrecipient shall not be relieved of any liability to Department for damages by virtue of any breach of this contract by Subrecipient. Department may withhold any payment due to Subrecipient until such time as the amount of damages due to Department is agreed upon or is otherwise determined.
- D. Department shall not be liable for any costs incurred by Subrecipient after termination or during suspension of this contract

## **SECTION 8. CHANGES AND AMENDMENTS**

- A. Any change in the terms of this contract required by a change in state or federal law or regulation is automatically incorporated herein effective on the date designated by such law or regulations.
- B. Except as otherwise specifically provided herein, any change in the terms of this contract shall be made by an amendment in writing and signed by both parties to this contract.

## **SECTION 9. TECHNICAL ASSISTANCE AND MONITORING**

Department or its designee may conduct periodic on-site monitoring and evaluation of the efficiency, economy, and effectiveness of Subrecipient's performance of this contract. Department will advise Subrecipient in writing of any deficiencies noted during such monitoring. Department will provide technical assistance to Subrecipient and will require or suggest changes in Subrecipient's program implementation or in Subrecipient's accounting, personnel, procurement, and management procedures in order to correct any deficiencies noted. Department will conduct follow-up visits to review and assess the efforts Subrecipient has made to correct previously noted deficiencies. Department may place Subrecipient on a cost reimbursement method of payment, terminate this contract, or invoke other remedies in the event monitoring or other reliable sources reveal material deficiencies in Subrecipient's performance or if Subrecipient fails to correct any deficiency within the time allowed by federal law.

## **SECTION 10. RETENTION AND ACCESSIBILITY OF RECORDS**

- A. Subrecipient shall maintain fiscal records and supporting documentation for all expenditures made under this contract in accordance with the Uniform Grant Management Standards, Common Rule, §\_42.
- B. All information collected, assembled, or maintained by Subrecipient shall be made available to the public during normal business hours in compliance with the Texas Public Information Act, Texas Government Code, Chapter 552.
- C. Subrecipient shall give the U.S. Department of Health and Human Services, the U.S. General Accounting Office, the Texas Comptroller, the State Auditor's Office, and Department, or any of their duly authorized representatives, access to and the right to examine and copy, on or off the premises of Subrecipient, all records pertaining to this contract. Such right to access shall continue as long as the records are retained by Subrecipient. Subrecipient agrees to maintain such records for **three (3)** years in an accessible location and to cooperate with any examination conducted pursuant to this subsection. Subrecipient shall include the substance of this subsection in all subcontracts. Upon termination of this contract, all records are property of the CSBG.

## **SECTION 11. REPORTING REQUIREMENTS**

- A. Subrecipient shall submit to Department a CSBG Monthly Performance and Expenditure Report. The report must be received by Department according to the schedule set forth in Section 5(A). Reimbursements will not be processed without the submission of a CSBG Monthly Performance Report.
- B. Upon notification by the Department that all funding has been drawn down from funds available under the prior year's allocation, Subrecipient shall submit to Department, no later than 60 days from the date of notification, a final CSBG Expenditure Report containing a full accounting of all funds expended under that allocation.
- C. Subrecipient shall annually submit to Department, no later than the last day of February, a cumulative inventory of all equipment acquired, in whole or in part, with funds received under this or previous CSBG contracts.
- D. If Subrecipient fails to submit within 45 days of its due date, any report or response required by this contract, including responses to monitoring reports, Department may, in its sole discretion, suspend payments, place Subrecipient on cost reimbursement method of payment, and initiate proceedings to terminate the contract. If Subrecipient receives CSBG funds from Department over two or more contract periods, termination proceedings may be initiated on this contract for Subrecipient's failure to submit a report, including an audit report, past due from a prior contract.

## **SECTION 12. PROPERTY REQUIREMENTS**

- A. Subrecipient may not use funds provided under this contract to purchase personal property with a unit acquisition cost (the net invoice unit price of an item of equipment) of more than \$5,000 unless Subrecipient has received the prior written approval of Department for such purchase.
- B. Upon the termination or non-renewal of this contract, Department may transfer title to any such equipment having a unit acquisition cost (the net invoice unit price of an item of equipment) of \$5,000 or more to itself or to any other entity receiving funds under the CSBG Act.

## **SECTION 13. INDEPENDENT CONTRACTOR**

Subrecipient is an independent contractor. Subrecipient agrees to hold Department harmless and, to the extent allowed by law, indemnify it against any disallowed costs or other claims which may be asserted by any third party in connection with Subrecipient's performance of this contract.

## **SECTION 14. SUBCONTRACTS**

- A. Subrecipient may not subcontract the primary performance of this contract and only may enter into contractual agreements for consulting and other professional services including, but not limited to, auditors and attorneys, if Subrecipient has received Department's prior written approval. Subrecipient may subcontract for the delivery of client assistance without obtaining Department's prior approval. Any subcontract for the delivery of client assistance will be subject to monitoring by the Department as per Section 9.
- B. In no event shall any provision of this Section 14 specifically the requirement that Subrecipient obtain Department's prior written approval of a subcontractor, be construed as relieving Subrecipient of the responsibility for ensuring that the performances rendered under all subcontracts are rendered so as to comply with all of the terms of this contract, as if such performances rendered were rendered by Subrecipient. Department's approval under Section 14 does not constitute adoption, ratification, or acceptance of Subrecipient's or subcontractor's performance hereunder. Department maintains the right to insist upon Subrecipient's full compliance with the terms of this contract, and by the act of approval under Section 14, Department does not waive any right of action which may exist or which may subsequently accrue to Department under this contract.

## **SECTION 15. CONFLICT OF INTEREST/NEPOTISM**

- A. Subrecipient covenants that neither it nor any member of its governing body has or shall acquire any interest, direct or indirect, which would conflict in any manner with the performance of this contract. No person having such interest shall be employed by Subrecipient or appointed as a member of Subrecipient's governing body. No member of Subrecipient's governing body may be employed by Subrecipient during his service on the board or for twelve months thereafter.
- B. Subrecipient agrees that it will ensure that no officer, employee, or member of Subrecipient's governing body shall vote for or confirm the employment of any person related within the second degree by affinity or third degree by consanguinity to any member of the governing body or to any other officer or employee authorized to employ or supervise such person. A definition of such prohibited relationship may be found in §573.021 et seq. of the Texas Government Code. This prohibition shall not prohibit the continued employment of a person who has been continuously employed for a period of one year prior to the election or appointment of the officer, employee, or governing body member related to such person in the prohibited degree.
- C. No employee, officer, or agent of Subrecipient shall participate in the selection, award, or administration of a subcontract supported by funds provided hereunder if a conflict of interest, real or apparent, would be involved. Such a conflict of interest would arise when: 1) the employee, officer, or agent; 2) any member of his or her immediate family; 3) his or her partner; or 4) any organization which employs or is about to employ, any of the above, has a financial or other interest in the firm or person selected to perform the subcontract.
- D. Subrecipient's employees, officers, and agents shall neither solicit nor accept gratuities, favors, or anything of monetary value from subcontractors, or potential subcontractors.

## **SECTION 16. COMPLIANCE WITH LAWS**

Subrecipient shall comply with the CSBG Act and with the rules and regulations promulgated there under, and with all federal, state, and local laws and regulations applicable to the performance of this contract, including 10 TAC, Part I, Ch 5, Subch. A, Section 5.1-5.15.

## **SECTION 17. PROGRAM INCOME**

Subrecipient shall account for and expend program income derived from activities financed in whole or in part with funds provided under this contract in accordance with the Uniform Grant Management Standards, Common Rule, §\_25.

## **SECTION 18. NON-BINDING GUIDANCE**

Department may issue non-binding guidance to explain the rules and provide directions on terms of this contract.

## **SECTION 19. NON-DISCRIMINATION AND EQUAL OPPORTUNITY**

No person shall on the grounds of race, color, religion, sex, national origin, age, disability, political affiliation or belief be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment in the administration of or in connection with any program or activity funded in whole or in part with funds made available under this contract.

## **SECTION 20. LEGAL AUTHORITY**

- A. Subrecipient represents that it possesses the legal authority to enter into this contract and to perform the services Subrecipient has obligated itself to perform hereunder.
- B. The person signing this contract on behalf of Subrecipient hereby warrants that he/she has been duly authorized by Contract to execute this contract on behalf of Subrecipient and to bind Subrecipient to the terms herein set forth.
- C. Department shall have the right to terminate this contract if there is a dispute as to the legal authority of either Subrecipient or the person signing this contract to enter into this contract or to render performances hereunder. Subrecipient is liable to Department for any money it has received from Department for performance of the provisions of this contract, if Department has terminated this contract for reasons enumerated in this Section 20.

## **SECTION 21. AUDIT**

- A. For any fiscal year included within the Grant Period during which the Subrecipient expended \$500,000 or more in total federal or \$500,000 in total state financial assistance, Subrecipient shall arrange for the performance of an annual audit of the funds received and performances rendered under this grant agreement. The audit shall be made in accordance with the Single Audit Act Amendments of 1996, 31 U.S.C. ch. 75; and OMB Circular No. 133 (as revised on 6/30/1997), "Audits of States, Local Governments, and Non-Profit Organizations." The term "federal financial assistance" includes awards of federal financial assistance received directly from federal agencies, or indirectly through units of state and local government.
- B. Notwithstanding Subsection A, of this Section 21, Subrecipients expending less than \$500,000 in Federal financial assistance or \$500,000 in State financial assistance, may arrange for the performance of an annual financial statement audit. Such audit should include verification of all expenditures by budget category, in accordance with final Expenditure Report submitted to close out allocation year.
- C. Subrecipient shall submit three (3) copies of such audit report and any associated management letter to the Department (2 to Portfolio Monitoring and Compliance and 1 to Community Affairs Division) within the earlier of thirty (30) days after receipt of the auditor's report(s), or nine (9) months after the end of the audit period. Subrecipient shall make audit report available for public inspection within thirty (30) days after receipt of the audit(s). Audits performed under this Section 21 are subject to review and resolution by Department or its authorized representative.
- D. For any fiscal year ending within or immediately after the Grant Period, Subrecipient must submit an "Audit Certification Form" (available from the Department) within sixty (60) days after the Subrecipients fiscal year end.
- E. Department reserves the right to conduct additional audits of the funds received and performances rendered under this grant agreement. Subrecipient agrees to permit Department or its authorized representative to audit Subrecipient's records and to obtain any documents, materials, or information necessary to facilitate such audit.
- F. Subrecipient shall be liable to Department for any costs disallowed pursuant to audit(s) of funds received under this agreement. Subrecipient shall reimburse such disallowed costs with funds that are not provided under this contract.
- G. Subrecipient shall procure audit services through an open, competitive process at least once every four years. The auditor shall retain working papers and reports for a minimum of three years after the date of issuance of the auditor's report to the auditee. Audit working papers shall be made available upon request to Department at the completion of the audit, as a part of a quality review, to resolve audit findings, or to carry out oversight responsibilities consistent with the purposes of this part. Access to working papers includes the right to obtain copies of working papers, as is reasonable and necessary.

## **SECTION 22. TRAVEL**

Allowable travel costs under this contract shall be determined in accordance with OMB Circulars A-122 or A-87, as applicable, any Department directives on travel, and with Subrecipient's written travel policy. Subrecipient's written travel policy shall delineate the rates which Subrecipient shall use in computing the travel and per diem expenses of its board members and employees. Prior to incurring any costs for travel, Subrecipient must provide Department with a copy of its travel policy and evidence that such policy has been approved by Subrecipient's governing body. If Subrecipient has no established written travel policy, the travel regulations applicable to Department employees shall apply.

## **SECTION 23. POLITICAL ACTIVITY PROHIBITED**

- A. None of the funds provided under this contract shall be used for influencing the outcome of any election, or the passage or defeat of any legislative measure. This prohibition shall not be construed to prevent any official or employee of Subrecipient from furnishing to any member of its governing body upon request, or to any other local or state official or employee or to any citizen, information in the hands of the employee or official not considered under law to be confidential information. Any action taken against an employee or official for supplying such information shall subject the person initiating the action to immediate dismissal from employment.
- B. No funds provided under this contract may be used directly or indirectly to hire employees or in any other way fund or support candidates for the legislative, executive, or judicial branches of government of Subrecipient, the State of Texas, or the government of the United States.
- C. None of the funds under this contract shall be expended in payment of the salary for full-time employment of any employee who is also the paid lobbyist of any individual, firm, association, or corporation. None of the funds provided by this contract shall be expended in payment of the partial salary of a part-time employee who is required to register as a lobbyist by virtue of the employee's activities for compensation by or on behalf of industry, a profession or association related to operation of Subrecipient. A part-time employee may serve as a lobbyist on behalf of industry, a profession, or association so long as such entity is not related to Subrecipient. Except as authorized by law, no contract funds shall be expended in payment of membership dues to an organization on behalf of Subrecipient or an employee of Subrecipient if the organization pays all or part of the salary of a person required to register under Chapter 305, Government Code.
- D. None of the funds provided under this contract shall be paid to any official or employee who violates any of the provisions of this section.
- E. Programs assisted with CSBG funds shall not be carried on in a manner involving the use of program funds, the provision of services, or the employment or assignment of personnel, in a manner supporting or resulting in the identification of such programs with-
1. any partisan or non partisan political activity or any political activity associated with a candidate, or contending faction or group, in an election for public or party office;
  2. any activity to provide voters or prospective voters with transportation to the polls or similar assistance in connection with any such election; or
  3. any voter registration activity.

## **SECTION 24. SECTARIAN INVOLVEMENT PROHIBITED**

No funds received by Subrecipient hereunder shall be used, either directly or indirectly, to support any religious or anti-religious activity.

## **SECTION 25. COPYRIGHT**

Subrecipient may copyright materials developed in the performance of this contract or with funds expended under this contract. Department and HHS shall each have a royalty-free, nonexclusive, and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use, the copyrighted work for government purposes.

**SECTION 26. PREVENTION OF WASTE, FRAUD, AND ABUSE**

- A. Subrecipient shall establish, maintain, and utilize systems and procedures to prevent, detect, and correct waste, fraud, and abuse in activities funded under this contract. The systems and procedures shall address possible waste, fraud, and abuse by Subrecipient, its employees, clients, vendors, subcontractors and administering agencies. Subrecipient's internal controls systems and all transactions and other significant events are to be clearly documented, and the documentation is to be readily available for monitoring by Department.
- B. Subrecipient shall give Department complete access to all of its records, employees, and agents for the purpose of monitoring or investigating the CSBG program. Subrecipient shall fully cooperate with Department's efforts to detect, investigate, and prevent waste, fraud, and abuse.
- C. Subrecipient shall not discriminate against any employee or other person who reports a violation of the terms of this contract or of any law or regulation to Department or to any appropriate law enforcement authority if the report is made in good faith.

**SECTION 27. HB 1196 CERTIFICATION**

Subrecipient certifies that it, or a branch, division, or department of Subrecipient does not and will not knowingly employ an undocumented worker, where "undocumented worker" means an individual who, at the time of employment, is not lawfully admitted for permanent residence to the United States or authorized under law to be employed in that manner in the United States. If, after receiving a public subsidy, Subrecipient or a branch, division, or department of Subrecipient is convicted of a violation under 8 U.S.C. Section 1324a, Subrecipient shall repay the public subsidy with interest, at the rate of 5% per annum, not later than the 120th day after the date TDHCA notifies Subrecipient of the violation.

**SECTION 28. SB 608 CERTIFICATION**

Under Section 2261.053, Texas Government Code, Subrecipient certifies that it is not ineligible to receive this contract and acknowledges that this contract may be terminated and payment withheld if certification is inaccurate.

**SECTION 29. MAINTENANCE OF EFFORT**

Funds provided to Subrecipient under this contract may not be substituted for funds or resources from any other source nor in any way serve to reduce the funds or resources which would have been available to or provided through Subrecipient had this contract never been executed.

**SECTION 30. NO WAIVER**

Any right or remedy given to Department by this contract shall not preclude the existence of any other right or remedy, nor shall any action taken in the exercise of any right or remedy be deemed a waiver of any other right or remedy. The failure of Department to exercise any right or remedy on any occasion shall not constitute a waiver of Department's right to exercise that or any other right or remedy at a later time.

**SECTION 31. SEVERABILITY**

If any portion of this contract is held to be invalid by a court or administrative tribunal of competent jurisdiction, the remainder shall remain valid and binding.

**SECTION 32. ORAL AND WRITTEN AGREEMENTS**

All oral and written agreements between the parties relating to the subject matter of this contract have been reduced to writing and are contained in this document and the exhibits attached hereto.

**SECTION 33. COMMUNITY ACTION PLAN**

Each eligible entity, as a condition to receipt of funding under this Act, shall submit to the Department a community action plan annually by October 31 that includes:

- A. a community needs assessment every five years (next one due October 31, 2010);
- B. a description of the service delivery system targeted to low-income individuals and families in the service area, including homeless individuals and families, migrants, and the elderly poor;
- C. a description of how linkages will be developed to fill identified gaps in services through information, referral, case management, and follow-up consultations;
- D. a description of how funding under this Act will be coordinated with other public and private resources; and,
- E. a description of outcome measures to be used to monitor success in promoting self-sufficiency, family stability, and community revitalization.

**SECTION 34. SPECIAL CONDITIONS**

The Pro-Children Act of 1994, [20 U.S.C. Sec. 6081 et seq.] requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted by an entity and used routinely or regularly for the provision of health, day care, education, or library services to children under the age of 18 if the services are funded by Federal programs either directly or through States or local governments by Federal grant, contract, loan or loan guarantee.

**SECTION 35. EXCLUDED PARTIES LIST SYSTEM**

By signing this contract, Subrecipient certifies that neither it nor its current principle parties are included in the Excluded Parties List System (EPLS) maintained by the General Services Administration (GSA). Subrecipient also certifies that it will not award any funds provided by this contract to any party that is debarred, suspended, or otherwise excluded from or ineligible for participation in federal assistance programs under Executive Order 12549. Subrecipient agrees that prior to entering into any agreement with a potential subcontractor that the verification process to comply with this requirement will be accomplished by checking the Excluded Parties List System @ <http://www.epls.gov/> or by collecting a certification from the potential subcontractor.

Effective Date: [January 01, 2009](#)

[Hidalgo County Community Services Agency](#)

By:

**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS**

By:

This contract is effective when signed by the Texas Department of Housing and Community Affairs Executive Director or his authorized designee.