

***LANCASTER COUNTY  
WORKFORCE DEVELOPMENT BOARD***

***AND***

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***ADMINISTRATIVE AND FINANCIAL AGREEMENT***

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AFA - FY 2022

**July 1, 2022 – June 30, 2023**

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## **Administrative and Financial Agreement**

**Between**

**Lancaster County Workforce Development Board (LCWDB)**

**and**

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### **Introduction**

The Local Workforce Development Board (LWDB) for the Lancaster County Local Workforce Development Area (LWDA) as designated within the Commonwealth of Pennsylvania is incorporated as the Lancaster County Workforce Development Board and is hereafter referred to as the "LCWDB".

The LCWDB is responsible for programs under the Workforce Innovation and Opportunity Act of 2014 (WIOA). Funding provided by the Pennsylvania Department of Labor and Industry (L&I), the Pennsylvania Department of Human Services (DHS), and other state and federal programs appropriated to Subrecipient must comply with the requirements outlined in this Agreement.

Each Subrecipient is responsible for providing LCWDB program services as defined by WIOA, DHS, and/or other programs as funded by this Agreement. The Subrecipient represents that it is duly qualified and willing to perform the services set forth herein and agrees to comply with all LCWDB, local, state, and federal rules and regulations.

This Agreement is between LCWDB and \_\_\_\_\_,  
hereinafter referred to as "Subrecipient".

### Terms and Fees

PROGRAM: \_\_\_\_\_

CFDA Number: \_\_\_\_\_

Funding Source (federal): US Department of Labor, Employment and Training  
Administration

Funding Source (pass-through) PA Department of Labor and Industry

Contract Number: \_\_\_\_\_

Subrecipient Name \_\_\_\_\_

Subrecipient Address \_\_\_\_\_

Agreement Period: \_\_\_\_\_

Fiscal Year of Program \_\_\_\_\_

Total Initial Award: \_\_\_\_\_

### Purpose

This Agreement, known as the Administrative and Financial Agreement (AFA), hereafter known as the "Agreement", serves as a contract and memorandum of understanding between LCWDB and the Subrecipient. The provisions and terms of this Agreement are subject to change as mandated by federal and/or state regulation and/or policy, or as negotiated by the LCWDB and the Subrecipient.

The Subrecipient shall use the program resources, provided through this Agreement, for the costs of providing workforce-development services as defined by the LCWDB Local Plan and fully integrated in the region's PA CareerLink® delivery system. The parties to this Agreement will work cooperatively to provide high quality workforce development services that are customer-focused to help participants find and use the tools, information, and services they need to manage their careers, and to help local businesses find skilled workers.

The performance of Subrecipient under this Agreement shall conform, at all times, with the requirements of LCWDB's Local Plan as approved by the Pennsylvania Department of Labor & Industry, Bureau of Workforce Development Administration ("L&I"), LCWDB operational and strategic plans as amended, all policies and procedures promulgated by L&I, the grant agreement between LCWDB and the Pennsylvania Department of Human Services (DHS), the Workforce Innovation and Opportunity Act of 2014, the Workforce Innovation and Opportunity Act implementing regulations, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Welfare Reform), and the requirements of all other applicable grants or funding sources.

### **Scope of Work**

The services to be provided by the Subrecipient shall include, without limitation \_\_\_\_\_, as detailed in RFP # \_\_\_\_\_, Section 4, Scope of Work inclusive of all addenda ("RFP") and Subrecipient's proposal thereto dated \_\_\_\_\_, both of which are incorporated into this Agreement by reference (herein the "Services").

### **Precedence**

Where a conflict exists between the RFP and the Subrecipient's proposal, the Subrecipient shall provide the higher quality or quantity of Services except as otherwise specifically addressed in this Agreement. Where a exists between this Agreement, the RFP, or the Subrecipient's proposal, the terms and conditions of this Agreement shall prevail.

### **Compliance with Laws**

In the performance of this Agreement, Subrecipient shall comply with all applicable laws, ordinances, rules, policies, and regulations of governmental authorities. Subrecipient shall minimize pollution and shall strictly comply with all applicable environmental laws and regulations. Subrecipient shall give required notices, and secure and pay for any permits, licenses, and easements required for performance of the Services. The Subrecipient shall provide all notices that may be required for the performance of the Services.

### **Additional Services**

In the event that the Subrecipient determines that any alteration, modification, or addition to the Services is necessary (herein "Additional Services"), the Subrecipient shall submit a proposal to LCWDB setting forth, in reasonable detail, the scope of such Additional Services, the estimated time and price of performing the Additional Services, and any potential impact on existing Services and any fees related hereto. The Subrecipient shall obtain the prior written approval from the LCWDB before performing any Additional Services. The Subrecipient shall not be entitled to any additional compensation for work or materials associated with Additional Services unless it receives such approval. If approved by LCWDB, the Subrecipient shall perform such Additional Services in accordance with the terms of this Agreement.

### **Roles and Responsibilities**

#### **LCWDB**

LCWDB oversees the public workforce development system and ensures that operations and performance of the system are in accordance with local, state, and federal priorities. Appointed by the Local Elected Official Board (LEO), LCWDB is the designated Fiscal Agent for the LWDA.

The LCWDB administrative and financial roles and responsibilities include, but are not limited to, the following:

- Establish and monitor compliance with all administrative, financial and program requirements.
- Develop and implement administrative and fiscal policy and procedures.
  - Develop policies and work in conjunction with the Subrecipient to develop procedures to guide administrative and fiscal operations. On an on-going basis, LCWDB will review policies and procedures to ensure continuous improvement of services throughout the LWDA. The LCWDB reserves the right to update and/or modify policies at any time.
  - Develop budgets in conjunction with the Subrecipient and oversee and monitor the use of funds.

- Approve budgets and expenditures of all contracted funds received or passed-through as set forth in this Agreement.
- Develop standardized financial reporting formats.
- Establish financial reporting requirements and timeframes for completion.
- Actively seek grants and additional funds to support the workforce development system in the Lancaster region. Expenditure of additional funds and appropriate delivery of services will be determined on the basis of the terms of individual grants.

### **Subrecipient**

The Subrecipient warrants that it is an independent entity with respect to all Services performed under this Agreement and that nothing in this Agreement is intended, or should be construed, to represent that the Subrecipient as an agent or employee of the LCWDB.

The Subrecipient roles and responsibilities include, but are not limited to, the following:

- Conduct fiscal management and oversight in cooperation with LCWDB.
- Provide for internal control and accounting procedures that are in accordance with generally accepted accounting principles (2 CFR Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (the "Uniform Guidance"); WIOA, and the PA Department of Labor & Industry Financial Management Policy, and WIOA).
- Complete required financial reporting, data management, and information sharing requirements within designated timelines.
- Identify opportunities to implement efficiencies and cost savings in the delivery of services without sacrificing overall quality and customer satisfaction.
- Subrecipient will be responsible for budgeting for and procuring information technology hardware and software (including but not limited to workstations, email service, and servers) for staff assigned to work performed under the Agreement(s) and related information technology support.

### **Establishment & Maintenance of Program Records**

The Subrecipient shall establish and maintain financial records in accordance with requirements prescribed by the LCWDB and by state and federal law, with respect to all matters covered by this Agreement and any other information in support of invoices submitted to the LCWDB, including relevant aspects of its system of internal accounting controls.

All costs shall be supported by properly executed and fully funded payrolls, time records, invoices, contracts, vouchers, purchase orders, and/or any other accounting documents pertaining in whole or in part to this Agreement. Such records shall be clearly identified and readily accessible to the LCWDB.

Subrecipient shall maintain records, as required under this Agreement, by law, regulations, or adopted policies, relating to its performance under this Agreement, and shall permit LCWDB and L&I to have access to all records directly related to the administration of all grants and other funding that are subject to this Agreement. The Subrecipient will make available to LCWDB, L&I, and any other government agency or duly authorized representative, all books, documents, papers, and records for the purpose of monitoring, audits, examination, excerpts, and transcriptions. Records shall be maintained for a period of seven (7) years beyond the final day of the program year (July 1 to June 30), or the date that this Agreement is terminated, unless litigations, claims, or audits are begun prior to the expiration of this seven-year period, in which

case, all records shall be retained until those litigations, claims or audits relating to those records have been resolved.

Subrecipient agrees to maintain all statistical records required by L&I and to produce statistical data at times and on forms prescribed by L&I.

Subrecipient is responsible for adequate safekeeping and record retention with all lower tiered entities that the Subrecipient may have entered into with agreements, contracts, Memorandums of Understanding (MOU), sub-grants, etc.

Subrecipient is required to have a recovery plan in case of computer and/or data failure. Subrecipient is required to take adequate steps to secure such data in the event of a forewarned natural disaster.

Upon expiration of applicable record retention period, Subrecipient is required to dispose properly all records produced under this Agreement to ensure that no unauthorized person will have access to information contained in the record. Paper records containing confidential information must be shredded. It is preferred that destroyed documents be recycled. For data formerly stored electronically on a hard drive, appropriate software applications must be utilized to remove all data to prevent the reconstruction of any data prior to its disposal. Removable data storage devices and back-up tapes must be physically destroyed prior to disposal. Proper storage, storage fees and disposal fees rest solely with the Subrecipient.

#### **Pennsylvania Right to Know Law**

The Subrecipient understands that records related to or arising out of this Agreement are subject to requests pursuant to the Pennsylvania Right to Know Law (RTKL).

If the Commonwealth of Pennsylvania and/or LCWDB (hereinafter called "Requesting Agencies") require the Subrecipient's assistance in any matter arising out of the RTKL related to this Agreement, it shall notify the Subrecipient using the legal contact information provided in the Agreement. The Subrecipient, at any time, may designate a different contact for such purpose upon reasonable prior written notice to the Requesting Agencies.

Upon written notification from the Requesting Agencies that it requires the Subrecipient's assistance in responding to a request under the RTKL for information related to this Agreement that may be in the Subrecipient's possession, constituting, or alleged to constitute, a public record in accordance with the RTKL ("Requested Information"), the Subrecipient shall:

1. Provide the Requesting Agencies, within five (5) business days after receipt of written notification, access to, and copies of, any document or information in the Subrecipients' possession arising out of this Agreement that the Requesting Agencies reasonably believes is Requested Information and may be a public record under the RTKL; and
2. Provide such other assistance as the Requesting Agencies may reasonably request, to comply with the RTKL with respect to this Agreement.

If the Subrecipient considers the Requested Information to include a request for documents that are considered exceptions and not required to be provided to a requestor under Section 708 of the RTK, the Subrecipient must notify the Requesting Agencies and provide, within five (5) calendar days of receiving the written notification, a written statement signed by a representative

of the Subrecipient explaining why the requested documents are exempt from public disclosure under the RTKL.

The Requesting Agencies will rely upon the written statement from the Subrecipient in denying a RTKL request for the Requested Information unless the Requesting Agencies determines that the Requested Information is likely not protected from disclosure under the RTKL. Should the Requesting Agencies determine that the Requested Information is clearly not exempt from disclosure the Subrecipient shall provide the Requested Information within five (5) business days of receipt of written notification of the Requesting Agencies determination.

If the Subrecipient fails to provide the Requested Information within the time required by these provisions, the Subrecipient shall indemnify and hold the Requesting Agencies harmless for any damages, penalties, costs, detriment, or harm that the Requesting Agencies may incur as a result of the Subrecipient's failure, including any statutory damages assessed against the Requesting Agencies.

The Requesting Agencies will reimburse the Subrecipient for all costs associated with complying with these provisions only to the extent allowed under the fee schedule established by the Office of Open Records or as otherwise provided by the RTKL if the fee schedule is inapplicable.

The Subrecipient may file a legal challenge to any Requesting Agencies decision to release a record to the public with the Office of Open Records, or in the Pennsylvania Courts, however, the Subrecipient shall indemnify the Requesting Agencies for any legal expenses incurred by the Requesting Agencies as a result of such a challenge and shall hold the Requesting Agencies harmless for any damages, penalties, costs, detriment or harm that the Requesting Agencies may incur as a result of the Subrecipient's failure, including any statutory damages assessed against the Requesting Agencies, regardless of the outcome of such legal challenge. As between the parties, the Subrecipient agrees to waive all rights or remedies that may be available to it because of the Requesting Agencies disclosure of Requested Information pursuant to the RTKL.

The Subrecipient's duties relating to the RTKL are continuing duties that survive the expiration of this Agreement and shall continue if the Subrecipient has Requested Information in its possession.

### **Term and Termination**

The term of this AFA is for the period starting \_\_\_\_\_ and ending \_\_\_\_\_, unless otherwise terminated, pursuant to the terms of this Agreement, by action of law, or amended pursuant to the provisions of this Agreement. LCWDB may, but is not obligated, to extend this Agreement by written notification to the Subrecipient.

Individual program dates will commence and end according to the requirements of the funding sources identified and incorporated in this Agreement.

LCWDB reserves the right to unilaterally terminate this Agreement with 30 days' written notice. LCWDB also reserves the right to unilaterally and immediately terminate this Agreement if it is determined, after an investigation by LCWDB, that the Subrecipient violated any federal or state law, regulation, policy, or guideline applicable to these funds, or misrepresented any of its assurances or certifications.

Upon termination, all finished or unfinished documents, data, studies, and reports or other material prepared by the Subrecipient under this Agreement, at the option of the LCWDB, shall



become the property of the LCWDB. Should LCWDB not exercise this right, Subrecipient shall, at Subrecipient's expense, provide proper storage and uphold the requirements as outlined in the Record Retention section of this Agreement.

A Subrecipient may terminate this Agreement upon ninety (90) days' written notice to the LCWDB. LCWDB reserves the right to terminate this Agreement at any time prior to the Subrecipient's designated termination date.

Upon early termination, the Subrecipient shall submit a final invoice to LCWDB no later than eighteen (18) days after the Termination Date. The final invoice must include copies of all invoices for goods and services received for which payment is requested. If the Subrecipient fails to submit its final invoice within eighteen (18) calendar days of the Termination Date, LCWDB shall have no obligation to reimburse any amounts requested in the final invoice. Subrecipient expressly agrees that nonpayment of a final invoice by LCWDB due to its late submission of the final invoice shall not give rise to any claim or cause of action by Subrecipient for nonpayment of service rendered, and the Subrecipient hereby releases LCWDB, its directors, officers, agents, and employees from any and all claims by the Subrecipient for nonpayment due to late submission.

### **Force Majeure**

Neither party shall be liable for any failure or delay in its performance resulting from any reasonably foreseeable cause beyond its reasonable control including, but not limited to, acts of God; acts or omissions of civil or military authority; fires, floods; unusually severe weather; strikes or other labor disputes; embargoes; wars; political strife; riots; delays in transportation; sabotage; or fuel, power, material or labor shortages, or pandemic, provided that the affected party notifies the other party within forty-eight (48) hours, or as soon as reasonably practicable if not within 48 hours, subsequent to an occurrence of force majeure.

### **Additional Terms and Conditions**

The Subrecipient shall be liable for all disallowed costs, as determined during program audits or reviews conducted by LCWDB, L&I, or the entity from which the specified funding originated (e.g., U.S. Department of Labor, Pennsylvania Department of Health and Human Services). The Subrecipient shall be liable for all disallowed costs identified by independent auditors in performing an OMB Circular A-133 Single Audit. The Subrecipient shall be liable for all payments made to or for any customer(s) determined ineligible during program audits or reviews, or as otherwise determined. Upon notification of a disallowed cost, Subrecipient shall reimburse LCWDB, L&I, or other funding entity, the amount of the disallowed cost, along with any accrued interest and penalties. LCWDB reserves the right to deduct an amount equal to any disallowed cost, along with accrued interest and penalties, from monies owed by LCWDB to the Subrecipient under this Agreement or any other agreement between LCWDB and the Subrecipient.

At events where the Subrecipient provides students food and/or beverages using funds provided under this Agreement, Subrecipient will provide LCWDB with an agenda for the event and completed sign-in sheets showing the date of event, printed names of attendees, and attendees' signatures.

In the event that LCWDB makes a payment to the Subrecipient that is subsequently determined to be unsupported by proper time and attendance records or supporting invoices, Subrecipient shall return the said payment to LCWDB within thirty (30) days of written notification.

The Subrecipient agrees to comply with all written instructions issued by the LCWDB.

LCWDB reserves the right to disapprove expenditures by the Subrecipient, which are not in accordance with this Agreement.

The Subrecipient guarantees the performance of all obligations specified in this Agreement in accordance with the terms and conditions of all Federal and State rules and regulations now existing or hereafter promulgated which are applicable to the performance of this Agreement. Official publication of such rules and regulations shall be deemed to be sufficient notice.

Subrecipient is not permitted to compete directly with the LCWDB regarding Workforce Development related activities, including, but not limited to, grants and additional funding opportunities. Subrecipient must seek LCWDB consent prior to the submission of application for grants and additional funding for workforce related programs and/or services. Such consent shall not be unreasonably withheld.

### **Funding Levels**

The LCWDB agrees to reimburse Subrecipient for actual Services rendered, pursuant to the terms and conditions of this Agreement. Funds available for reimbursement by LCWDB to Subrecipient are sometimes referred to herein as "Program Funds."

- The total amount of Program Funds payable to Subrecipient shall not exceed the total sum of amounts approved in this Agreement.
- Additional funding may become available to Subrecipient if LCWDB determines that additional Program Funds are available for use during this Agreement period.
- Funding decreases may be made if the LCWDB must reduce funding that is available under this Agreement. Funding decreases may include, but are not limited to the following:
  - The funds actually appropriated from a specified fund source are less than anticipated by the LCWDB.
  - The funds appropriated from a specified funding source become unavailable due to a funding reduction by the funding source.
  - LCWDB approves the transfer or division of funds among multiple subrecipients.
- Allocated Program Funds that are unexpended, uncommitted, or unencumbered as of the termination date of the Agreement shall automatically lapse as of that date.
  - If, under this Agreement, LCWDB makes a payment to the Subrecipient that is subsequently determined to be uncommitted and unexpended as of the termination date of the Agreement, the Subrecipient shall return said payment to LCWDB within thirty (30) days of date of termination.

Annually, LCWDB will set aside funds received from WIOA Adult, Dislocated Worker, and Youth programs, and DHS Employment Advancement and Retention Network (EARN) funds to support regional activities, including funding for Individual Training Accounts (ITAs), and On the Job Training (OJT) contracts. Infrastructure commitments to support the Resource Sharing Agreement Budgets (RSAB) are not set aside by the LCWDB. The RSAB includes the core information technology infrastructure at the PA CareerLink® location including the network, firewalls, and internet connection as well as workstations for use by the program participants and the general public in the Career Resource Areas and shared workshop rooms.

## **Program Budget**

During the term of this Agreement, the Subrecipient shall provide a Program Budget to the LCWDB:

- Subrecipient must submit a Program Budget at a level of detail established by LCWDB within thirty (30) days of execution this Agreement if not previously provided.
  - The cap for administrative functions is 10%, unless noted otherwise in the RFP. Please refer to the OMB Uniform Guidance an explanation of what constitutes administrative functions.
  - Upon LCWDB approval of the Program Budget, a notification will be made in writing to the Subrecipient, attached to this Agreement, and is incorporated into the Financial Status Report/Invoice Form of the Agreement.
  - Upon LCWDB disapproval of the Program Budget, a notification of the reason(s) for denial will be made in writing to the Subrecipient and a new Program Budget must be submitted to LCWDB within ten (10) business days.

## **Eligibility Determination**

The Subrecipient shall accept as referrals and enroll or employ as participants only those individuals who are confirmed to be eligible by Subrecipient or have been certified eligible pursuant to the policy regarding eligibility prescribed by LCWDB, which may be amended from time to time and have satisfied the eligibility criteria applicable to the program for which the participant has applied.

Eligibility for participation in any program funded hereunder shall be certified in writing on an individual basis, and the Subrecipient shall require submission of such certification before accepting any individual into a program and shall retain the certification in the participant's file.

Subrecipient shall reimburse LCWDB for all costs that are disallowed due to participant ineligibility, along with any accrued interest and penalties. LCWDB reserves the right to deduct an amount equal to any disallowed cost, along with accrued interest and penalties, from monies owed by LCWDB to the Subrecipient under this Agreement or any other agreement between LCWDB and the Subrecipient.

## **Travel and Training**

### *Staff Training*

Subrecipient staff attendance at formal classes and seminars must be approved in advance by LCWDB to qualify for reimbursement of tuition costs. Failure to obtain prior approval may result in the disallowance of tuition costs. Only classes or conferences directly related to an employee's job functions involved with program-funded activities will be authorized. All correspondence concerning attendance of job-related training should be directed to: Lancaster County Workforce Development Board, Attention: Contract Manager

### *Travel Expenses*

Reimbursement for travel expenses of the staff of Subrecipient shall be subject to the following conditions:

- Travel outside the State must have prior approval of LCWDB.

- Living and travel expenses, with itemized receipts, to be paid under the terms of this Agreement, will be reimbursed by the Subrecipient, in accordance with Subrecipient's approved travel policy, or at prevailing LCWDB rates, if no approved policy exists, unless otherwise specified.
- Travel and expenses for other than LCWDB approved events of more than \$200.00 must receive prior approval by LCWDB.

#### *Out-of-State Travel*

Travel and associated costs for travel out-of-state will not be reimbursed unless such costs are:

- reasonable and necessary to the purposes of this Agreement, and
- included in the Subrecipient's Program Budget.

Requests for approval of out-of-state travel should be in letter form and must include a statement as to the nature and purpose of the travel as it relates to this Agreement, and an estimate of the amount of travel and associated costs.

#### **Funds Identification**

Funds will be identified in writing and are incorporated in this Agreement. Federal programs will be further identified by the Catalog of Federal Domestic Assistance (CFDA) title and number; the award number and year; and, if applicable, the percentage of federal and state funds that make up the Agreement total.

#### **Taxes**

The LCWDB is exempt from all Federal excise and transportation taxes, and Pennsylvania sales and use tax. The LCWDB's federal Employer Identification Number (EIN) is 23-2147355. No exemption certificates are required, and none will be issued. Nothing in this paragraph is meant to suggest that Subrecipient is exempt from the payment of any applicable sales tax or use tax required to be paid with respect to its purchase or use of tangible personal property used or transferred in connection with its performance of services pursuant to this Agreement. If it is charged excise taxes, the Subrecipient may separately charge the LCWDB the amount of the tax as a reimbursable expense, and LCWDB reserves the right to seek a refund or credit with the appropriate taxing authorities.

#### **Modification**

LCWDB may incorporate a modification(s) to this Agreement upon LCWDB action.

- Modifications to the Agreement may be made by LCWDB quarterly or on an as-needed basis.
  - If practicable, LCWDB will notify the Subrecipient of any potential funding adjustments pertaining to the programs under this Agreement.
  - LCWDB shall notify the Subrecipient of all approved funding adjustments by providing an addendum to this Agreement and, if necessary, a written description explaining the adjustment of funds and/or program services set forth in the addendum. The addendum shall be incorporated in and made part of this Agreement.

The Subrecipient may request a modification to this Agreement on a quarterly basis by the issuance of a written amendment request. The modification request must be approved by LCWDB prior to incorporation into this Agreement.

The Subrecipient shall have the ability, from time to time, without the consent of LCWDB, to reallocate the value of line items within the Program Budget so long as (i) the aggregate adjustment for any single line item does not exceed ten percent (10%) of the original line-item amount; is within the same budget subcategory; and (ii) the adjustment does not involve any amounts budgeted for staff or direct participant costs. All such adjustments shall be reported to LCWDB within 48 hours of the budget adjustment and the Program Budget shall be amended to reflect the changes. The Subrecipient shall not make any other changes to the Program Budget without the prior written consent of LCWDB, which LCWDB may withhold in its sole and absolute discretion.

Upon LCWDB approval of modification to this Agreement, an addendum will be made in writing to the Subrecipient, attached to this Agreement, and incorporated by reference.

Upon LCWDB disapproval of modifications to this Agreement, a notification of the reason(s) for denial will be made in writing to the Subrecipient. The Subrecipient will have the right to appeal through the Impasse Resolution process.

### **Cost Allocation**

Subrecipient must have a documented cost allocation plan and/or an approved indirect cost rate. The cost allocation plan must include the cost allocation methodology used to ensure expenditures are allocated on a fair and equitable basis to all funding streams. Subrecipient shall submit a cost allocation plan or indirect cost rate to LCWDB within thirty (30) days of execution of this Agreement for approval. Upon LCWDB approval, the cost allocation plan will be attached to this Agreement and incorporated by reference.

Subrecipient may provide for the adjustment of allocation percentages using an approved cost allocation methodology no more than monthly.

Once approved by LCWDB, the cost allocation methodology cannot be changed by the Subrecipient without prior written approval from LCWDB. In the event that Subrecipient wishes to modify the cost allocation plan, Subrecipient must submit a new cost allocation plan to LCWDB with an explanation for the requested change in cost allocation methodology.

### **Reimbursement and Reporting System**

LCWDB shall reimburse the Subrecipient for actual costs of performing the Services. LCWDB's reimbursement of Subrecipient shall be subject to (i) the costs included in the Scope of Work as set forth herein, and in the Program Budget; (ii) 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements, for Federal Awards; (iii) the Workforce Investment Information Notice ("WIIN") 3-00 Change 2; (iv) the Financial Management Technical Assistance Guide; and (v) all applicable Federal and Commonwealth policies and guidance.

Under the cost reimbursement method of funding utilized in this Agreement, the Subrecipient is required to finance its operations with its own working capital with payments made by LCWDB to reimburse the Subrecipient for Services performed that are supported by adequate documentation. The Subrecipient will make reimbursement requests under this Agreement and under individual agreements that may be entered for the provision of Services pursuant to this

Agreement. Reimbursement requests must be submitted monthly unless otherwise stated in this Agreement. Reimbursement requests may only be for Services that have already been performed.

- **Financial Status Report/Invoice Form (FSR):**

- The FSR is the main source document for Subrecipient to report reimbursable expenditures to LCWDB and will be used as the Subrecipient's invoice to LCWDB for Services performed. Each FSR must reflect only actual allowable expenses incurred, including accrued expenditures, and may not include projected expenses.
  - The FSR must be submitted monthly by the close of business (5:00 pm) of the **6th** calendar day of each month, following the month being reported (e.g. July FSR is due the sixth calendar day in August). The FSR must show accrued expenditures for the month and the year-to-date expenditures compared to the Program Budget.
  - Payments will be processed in accordance with the LCWDB monthly payment cycle. If an undisputed FSR remains unpaid after forty-five (45) days, Subrecipient should send notice to LCWDB at support@lancastercountywib.com notifying them of the unpaid FSR and giving the LCWDB seven days to cure the unpaid invoice. If after the seven (7) day cure period, the invoice remains unpaid it shall bear interest at a rate of three percent (3%) per annum.
  - Failure to submit the FSR by the close of business of the eighth calendar day of the month will result in LCWDB placing a hold payment status on all future FSRs. The hold status will be released upon receipt of the FSR and payment will be made on the next regular monthly payment cycle.
- **Monthly Income Statement(s)** - A monthly income statement must be submitted by Subrecipient to LCWDB, which includes the monthly and year-to-date cumulative expenditures. The monthly income statement shall include the same level of detail as the Program Budget. The Subrecipient may produce the monthly income statement using its own financial system. If the Subrecipient's financial system cannot produce a monthly income statement with the level of detail required, LCWDB will provide the Subrecipient with a form statement.
  - **Preliminary Closeout** – Should L&I grant an extension for the due date of the June FSR, LCWDB shall inform Subrecipient of extension; otherwise, the June FSR is due by the close of business of the sixth calendar day in July.
  - **Fiscal Closeout Reports** – Subrecipient must electronically submit to LCWDB, by the close of business of the sixth calendar day of August, a final closeout package of cumulative expenditures made, and costs incurred, in accordance with the Program Budget and all other terms and conditions of this Agreement. Subrecipient must submit a hard copy of the fully executed and complete closeout package to LCWDB by the close of business of the 6th calendar day of August.
  - Subrecipient agrees to present Program Budget status and other financial updates to LCWDB and related committees upon request.

**Progress Reports**

The Subrecipient and its subcontractors shall furnish to the LCWDB daily, weekly, or monthly progress reports in such form and quantity as the LCWDB may from time to time require, including but not limited to, status reports of the program, proposed budgets, invoices, copies of all contracts executed and proposed, and all other information relative to the program as may be requested.

If the LCWDB determines that the Subrecipient or its subcontractors have not furnished such progress reports as required by the LCWDB, the LCWDB may suspend payments under this Agreement, until such time as the required reports are submitted.

**Trail Costs**

Trail costs are costs incurred after a grant period has ended (29 CFR Appendix A to Part 30, General Principles). Therefore, federal funds may not be allocated for any costs that may occur following the termination of the grant period.

USDOL guidance specifically states that all costs charged to federal grants must be allowable costs. In general, allowable costs are costs that are: (1) directly related to and necessary to carry out the approved activities, (2) reasonable, (3) allocable to sponsored agreements under the principles and methods provided in OMB Circulars, (4) consistent with policies and procedures that apply uniformly to both federally-financed and other activities of the entity, (5) accorded consistent treatment, (6) determined in accordance with Generally Accepted Accounting Principles (GAAP), (7) not included as a cost or used to meet cost sharing or matching requirements of any other federally-financed program, (8) are adequately documented and (9) not specifically disallowed by the state or local laws or regulations. Accordingly, federal funds may not be expended after the grant expires.

A FSR received following the termination of the award period does not benefit the program even if the costs were legitimate at the time they were incurred. The cost principles set forth above do not allow for reserve or contingency provisions for future expenditures.

**Claims for Consequential and/or Incidental Damages**

The Subrecipient waives all claims against LCWDB for lost or expected profits, consequential damages, and/or incidental damages arising out of or related to this Agreement.

**Assignable**

The Subrecipient shall not assign any interest in this Agreement without prior written consent of the LCWDB.

**Insurance**

Subrecipient shall procure and maintain at its own expense the following types of insurance coverage issued by companies authorized to conduct business in the Commonwealth of Pennsylvania.

- Commercial Comprehensive General Liability Insurance. Subrecipient shall provide LCWDB with a Certificate of Insurance evidencing insurance coverage and naming LCWDB as an Additional Insured. Subrecipient coverage shall not be less than \$1,000,000 per occurrence/\$1,000,000 aggregate.
- Commercial Automobile Insurance. Subrecipient shall provide LCWDB with proof of coverage for all vehicles issued to Subrecipient by LCWDB.

- Workers' Compensation Insurance for all employees and any contractors in accordance with the Workmen's Compensation Act of 1915 as amended. Subrecipient shall provide LCWDB with proof of coverage.

No funds will be reimbursed to the Subrecipient until receipt of insurance coverage is verified by the LCWDB.

### **Bonding**

Subrecipient shall show evidence of a bond for every officer, director, agent, or employee of the Subrecipient authorized to act on behalf of the Subrecipient for the purpose of requesting, receiving, or depositing funds, or issuing financial documents, checks, or other instruments of payments for program costs. The amount of single loss limit of insurance coverage shall be a minimum of \$500,000.

Subrecipient cash on hand shall not exceed the documented single loss limit of insurance coverage.

Subrecipient may request a waiver of these requirements in order to maintain lower bonding amounts. However, the amount of single loss limit of insurance coverage shall never be less than \$100,000. All requests for a waiver must be in writing, and approved by LCWDB.

Subrecipient must submit a copy of current bonding information at the time of execution of this Agreement.

### **Indemnification Clause**

The Subrecipient agrees to indemnify, defend, and hold harmless the LCWDB, its officers, directors, agents, employees, and assigns:

- From all claims and losses occurring or resulting from any and all contractors, subcontractors, and any other persons, firms, corporations or other legal entities furnishing or supplying work, services, materials, or supplies in connection with the performance of this Agreement.
- From all claims and losses occurring or resulting to any persons, firms, corporations or other legal entities who may be injured or damaged by the Subrecipient or its agents in the performance or non-performance of this Agreement.
- Against all liabilities, including, but not limited to, costs and expenses for violation of proprietary rights or rights of privacy, arising out of the publication, translation, reproduction, delivery, performance, use, or disposition of, any data furnished under this Agreement, or based on any libelous or other unlawful matter contained in such data.
- Against all audit exceptions arising from the Subrecipient's violation of the terms and conditions of this Agreement.

LCWDB agrees to indemnify, defend, and hold harmless the Subrecipient and its respective directors, officers, agents, and employees against all claims, damages, losses, or penalties that result from the wrongful acts or omissions of its administrative, professional, paraprofessional, or support staff.



## **Property Acquisitions**

All property acquisitions must adhere to LCWDB policy and procedures.

Subrecipient agrees to use its best efforts to obtain all supplies and equipment for use in the performance of this Agreement at the lowest practicable cost. Subrecipient shall maintain, repair, and if appropriate, provide insurance coverage for assets and equipment procured under this Agreement to maximize useful life and value.

Subrecipient shall procure all assets, equipment and supplies for use in the performance of the Services in accordance with the LCWDB procurement policy, a copy of which shall be provided to Subrecipient upon request.

Subrecipient shall obtain approval from LCWDB prior to purchasing any equipment in excess of \$499 except for computer hardware and other electronic equipment, which shall require written approval by LCWDB regardless of cost. Subrecipient shall also obtain approval from LCWDB prior to purchasing equipment where an individual item is less than \$499 but the aggregate purchase is in excess of \$499. For all tangible personal property with a life greater than one year, the Subrecipient shall, within thirty (30) days of purchase date, submit a copy of the invoice for said purchase to LCWDB. LCWDB shall issue property identification tags for these assets. All tangible personal property purchased through this Agreement must be received by June 30th.

- Title to all property and equipment acquired by Subrecipient with funds under this Agreement shall lie with the Subrecipient until the Termination Date. Upon termination, title to such property and equipment shall vest in the LCWDB or the federal government, subject to the applicable provisions in OMB 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. Furthermore, in the event this Agreement is terminated at any time and for any reason, all such property and equipment purchased or otherwise covered under this Agreement, shall be delivered to LCWDB or to a site designated by the LCWDB at Subrecipient's sole expense.

The Subrecipient shall submit, on an annual basis on or before July 31, an Annual Property Inventory Form as identified in the current Pennsylvania Department of Labor & Industry Financial Management Guide.

Subrecipient is responsible for establishing and maintaining an adequate system of property management and the safeguarding of all property acquired with funds provided under this Agreement.

Disposition during the term of this Agreement, and/or upon the termination of this Agreement, of property acquired using federal and/or state funds must adhere to procedures as outlined by LCWDB.

## **Integrity Provision**

The Subrecipient shall maintain the highest standards of integrity in the performance of this Agreement and shall take no action in violation of state or federal laws, regulations, or other requirements that govern the operation of this Agreement.

The Subrecipient shall not disclose to others any confidential information gained by virtue of this Agreement.

The Subrecipient shall not, in connection with this or any other agreement with LCWDB, directly or indirectly, offer, confer, or agree to confer any pecuniary benefit on anyone as consideration for the decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty by any officer, director or employee of LCWDB.

The Subrecipient shall not, in connection with this or any other agreement with LCWDB, directly or indirectly, offer, or agree or promise to give to anyone any gratuity for the benefit of or at the direction or request of any officer, director or employee of LCWDB.

Neither the Subrecipient nor any owner, officer, employee or agent of Subrecipient shall accept or agree to accept from, or give or agree to give to, any person, any gratuity in connection with the performance of Services under this Agreement except for proper reimbursement for Services as provided herein.

Except with the written approval of LCWDB and, if required, L&I, the Subrecipient, or any officer, director, or employee of the Subrecipient shall not have a material financial interest in any other contractor, subrecipient, or supplier providing services, labor, or material to LCWDB.

The Subrecipient, upon being informed that any violation of these provisions has occurred or may occur, shall immediately notify LCWDB in writing.

The Subrecipient, by execution of this Agreement and by its submission of any FSR, bill, or invoice for reimbursement or payment pursuant thereto, certifies and represents that these provisions have not been violated.

For violation of any of the above provisions, LCWDB may terminate this Agreement and any other agreement with the Subrecipient, claim liquidated damages in an amount equal to the value of anything received in breach of these provisions, claim damages for all expenses incurred in obtaining another contractor to complete performance hereunder, and debar and suspend the Subrecipient from doing business with LCWDB. These rights and remedies are cumulative, and the use or non-use of anyone shall not preclude the use of all or any other right or remedy available. These rights and remedies are in addition to those LCWDB may have under law, statute, regulation, or otherwise.

### **Fiscal Monitoring, Audits, and Evaluation**

The Subrecipient agrees to cooperate with the monitoring, evaluation and/or audit conducted by LCWDB, L&I, the USDOL, the U.S. Comptroller General, or their designees. The Subrecipient shall, at any time during normal business hours and as often as necessary, make available to authorized representatives any books, documents, records, including computer records, of the Subrecipient which are related to the Agreements, to conduct monitoring, audits and examinations, and make excerpts, transcripts, and photocopies. This right also includes timely and reasonable access to Subrecipient's personnel for the purpose of interviews and discussions related to such records.

LCWDB will conduct ongoing evaluation and monitoring of the Subrecipient's fiscal reporting and operations. Evaluation and monitoring will include, but may not be limited to, Agreement compliance and effectiveness, adherence to accrual reporting, allocation processing, and reporting of actual expenditures. Subrecipient shall adequately monitor its own fiscal reporting and shall establish sufficient internal controls necessary to safeguard against non-compliance, fraud or abuse.

Any instance of non-compliance will be documented by LCWDB and presented to the Subrecipient. A written resolution and/or corrective action plan may be required.

Subrecipient further agrees that LCWDB shall have the right to review and audit the Subrecipient's performance under this Agreement. However, review and audit by LCWDB shall not be deemed as LCWDB's approval of Subrecipient's activities, nor shall it be used to place responsibility upon LCWDB for Subrecipient's performance or nonperformance under this Agreement or Subrecipient's adherence to its terms and conditions. Subrecipient shall remain liable and bound by the terms and conditions of the Agreement, and shall comply with all state and federal requirements, notwithstanding any monitoring or review that may be conducted by LCWDB.

The Subrecipient shall permit independent auditors access to its financial records as necessary to comply with the Single Audit Act and OMB 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards; Subpart F – Audit Requirement. Subrecipient shall provide LCWDB with a true and correct copy of its complete Single Audit report of the auditor, including any corrective action plan and management letters if issued, within the earlier of thirty (30) days after receipt of the audit report or nine (9) months following the end of the Subrecipient's fiscal year.

Remedial actions may be implemented by LCWDB if Subrecipient demonstrates continued inability or unwillingness to comply with the requirements of OMB 2 CFR Part 200, Subpart F. Such remedial actions may include but are not limited to the following:

- Within thirty (30) days following notification of non-compliance, provide technical assistance and training to the Subrecipient in devising and implementing an appropriate plan to remedy the audit non-compliance.
- Within sixty (60) days following notification of non-compliance, and with LCWDB Board of Directors approval, suspend Agreements until the non-compliance is resolved.
- After ninety (90) days following notification of non-compliance, and with LCWDB Board of Directors approval, terminate Agreement.

LCWDB has the right to disallow all costs that cannot be substantiated at the time of audit due to the unavailability of records, lack of adequate preparation, and/or insufficiency of records, which shall be immediately reimbursed to LCWDB by Subrecipient. LCWDB reserves the right to deduct an amount equal to any disallowed cost, along with accrued interest and penalties, from monies owed by LCWDB to the Subrecipient under this Agreement or any other agreement between LCWDB and the Subrecipient.

The Subrecipient warrants that the Subrecipient has no outstanding, unresolved audit exceptions involving questioned and/or disallowed costs arising from any other agreements with LCWDB. In addition, the Subrecipient represents that it has not received notice of any legal action initiated against the Subrecipient, which could negatively affect Subrecipient's performance under the Agreement or its ability to receive federal or state funds.

### **Financial Management System**

Subrecipient shall maintain all fiscal records related to its performance under this Agreement in accordance with Generally Accepted Accounting Principles. Subrecipient must have or develop a financial management system that satisfactorily accounts for, and documents the receipt and

disbursement of, all Program Funds. The Subrecipient must maintain financial records that adequately identify the source and application of all Program Funds.

In addition, a cash-based accounting system must be capable of providing the accrued expenditure information needed to complete financial reports that are required under this Agreement. Sufficient documentation must be maintained to support all accrual information that is reported to L&I.

Program Funds forwarded to, but not yet earned by, the Subrecipient must be deposited in a bank with Federal Deposit Insurance Corporation (FDIC) insurance coverage and the balance exceeding the FDIC coverage must be collaterally insured.

The Subrecipient shall establish and maintain a secure system of financial management and control to assure that Program Funds provided hereunder are disbursed or expended only for the purposes and in the manner specified herein and are not susceptible to misuse, theft, or fraudulent conversion.

All expenditures are to be reported on an accrual basis of accounting. This is a requirement of the U.S. Department of Labor and Industry, Training and Employment Guidance Letter 2-16.

#### **Membership Restriction of Facilities**

Program Funds shall not be used to hold meetings, conferences, training sessions, or other gatherings at any facility which excludes or restricts membership of individuals on account of race, color, religion, national origin, ancestry, or gender.

#### **Federal Lobbying Certification**

Subrecipient certifies, to the best of Subrecipient's knowledge and belief, that Subrecipient is, and shall remain, in compliance with 29 CFR Part 93, New Restrictions on Lobbying, Byrd Anti-Lobbying Amendment (31 U.S.C. 1352).

No funds provided under this Agreement have been paid or will be paid, by or on behalf of the Subrecipient, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress or the Legislature of the Commonwealth of Pennsylvania, an officer or employee of Congress or the Legislature of the Commonwealth of Pennsylvania, or an employee of a member of Congress or the Legislature of the Commonwealth of Pennsylvania in connection with the awarding of any contract, the making of any state or federal grant, the making of any state or federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any state or federal contract, grant, loan, or cooperative agreement.

#### **Sectarian Activities**

Subrecipient shall ensure that Program Funds are not utilized for participants to be trained in religious activities, or to allow participants to construct, operate, or maintain any part of a facility that is primarily used or devoted to religious instruction or worship.

#### **Debarment, Suspension, Ineligibility and Voluntary Exclusion**

Subrecipient certifies compliance with Executive Order 12549, Debarment and Suspension, 29 CFR Part 98, Section 98.510, Participants' responsibilities. The regulations were published as Part VII of the May 26, 1988, Federal Register (pages 19160-19211).

Subrecipient certifies that it is not currently under suspension or debarment by the Commonwealth of Pennsylvania, any other state, or the federal government.

Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions, Subrecipient certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this Agreement by any federal or state department or agency and it shall notify LCWDB of any actions listed here.

Where Subrecipient is unable to certify to any of the statements in this certification, Subrecipient shall attach an explanation to this Agreement. Subrecipient shall provide immediate written notice to LCWDB if at any time the Subrecipient learns that this certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

### **Subrecipient's Responsibility Provisions**

Subrecipient is not permitted to subcontract, either in whole or in part, the Services to be performed under this Agreement without the express written consent of the LCWDB. If the Subrecipient enters subcontracts or employs any individuals or entities who are currently suspended or debarred by the Commonwealth of Pennsylvania, or the federal government, or who become suspended or debarred by the Commonwealth of Pennsylvania, or the federal government during the term of this Agreement or any extensions or renewals thereof, LCWDB shall have the right to require the Subrecipient to terminate such subcontracts or employment.

The Subrecipient agrees to reimburse LCWDB with non-Program Funds for the reasonable costs of investigation incurred by the Office of the Inspector General for investigations of the Subrecipient's compliance with terms of this or any other agreement between the Subrecipient and LCWDB that result in the suspension of this Agreement or debarment of the Subrecipient or any subcontractor, employee, or agent of Subrecipient. Such costs shall include, but not be limited to, salaries of investigators, including overtime; travel and lodging expenses; and expert witnesses, legal, and documentary fees. The Subrecipient shall not be responsible for investigative costs for investigations that do not result in the Subrecipient, subcontractor, employee, or agent's suspension or debarment.

### **Nondiscrimination & Equal Opportunity Assurance**

Subrecipient agrees that no person shall be denied benefits of, or otherwise be subjected to discrimination in connection with the Subrecipient's performance under this Agreement. Subrecipient shall comply fully with the nondiscrimination and equal opportunity provisions of the following:

- Workforce Innovation and Opportunity Act of 2014 (WIOA) Section 188, which prohibits discrimination regarding participation, benefits, and employment. No individual shall be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with, any program or activity covered by this Agreement because of race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, transgender status, and gender identity), national origin (including limited English proficiency), age, disability, or political affiliation or belief or against beneficiaries on the basis of either citizenship status or participation in any WIOA Title I-financially assisted program or activity.
- 29 CFR Part 37, Implementation of the Nondiscrimination Provisions of the Workforce Investment Act";

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), as amended, which prohibits discrimination on the bases of race, color and national origin, and 29 CFR Part 31;
- 29 CFR Part 1604, Guidelines on discrimination on the basis of sex, which includes sexual harassment;
- Executive Order 11246 (3 CFR, 1964-1965), as implemented by applicable regulations, which prohibits discrimination in employment decisions on the basis of race, color, religion, sex, or national origin and requires employer to ensure that equal opportunity is provided in all aspects of employment;
- Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as amended, which prohibits discrimination against qualified individuals with disabilities, and 29 CFR Part 32;
- The Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), as amended, which prohibits discrimination on the basis of age, and 29 CFR Parts 1625 and 1627; and
- Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), as amended, which prohibits discrimination on the basis of sex or blindness in education programs, and 29 CFR, Part 800.
- Subrecipient also assures that, as a recipient of WIOA Title I funds, it will comply with 29 CFR part 38 and all other regulations implementing the laws listed above. This assurance applies to Subrecipient's operation of all WIOA Title I-financially assisted programs and activities, and to all agreements that the Subrecipient makes to carry out WIOA Title I-financially assisted programs and activities. The Subrecipient understands that the Commonwealth of Pennsylvania and the United States have the right to seek judicial enforcement of this assurance.

### **Corrective Action Due to Equal Opportunity Compliance Review or Complaint Investigation**

Corrective action may take place in the event that Subrecipient is cited as the result of an Equal Opportunity Compliance Review or a complaint investigation. When there are findings of discrimination, a conciliation agreement and/or corrective action plan is required. The corrective action shall address the act of discrimination and shall include timetables by which the corrective action will be implemented. Corrective action may include recoupment of lost earnings the victim may have suffered. A written assurance must accompany a corrective action (to help ensure that the discrimination does not recur) stating that the Subrecipient will cease in its discriminatory practices.

Technical deficiencies may require a different time frame for corrections than findings of discrimination. The WDB's Equal Opportunity Officer (EOO) shall notify the Subrecipient in writing of the deficiencies found during Equal Opportunity Compliance Reviews along with a suggested corrective action plan. The EOO shall provide technical assistance in implementing the corrective action plan. The corrective action plan shall include written assurances to certify that a deficiency has been corrected, including the timeframe for correction. The assurance will attest that the Subrecipient shall continue to take steps to ensure that the deficiency(s) do not recur.

The Subrecipient shall be made aware at the Equal Opportunity Review or technical assistance training, that follow-up monitoring can occur at any time. In instances where deficiencies are identified and corrective action plans are submitted, on-site follow-up may occur within thirty (30) days from receipt of the corrective action plan to assess the adequacy of the corrective action. A letter advising the recipient of the program, practice or information that will be reviewed shall be

provided to the sub-recipient. Training rosters, written assurances, or other appropriate documentation may be required to confirm correction of deficiencies/violations.

Sanctions are imposed when a Subrecipient will not agree to or take voluntary corrective action. After all attempts to provide assistance and correction of deficiencies fail, the imposition of sanctions shall be considered. The sanctions imposed for noncompliance shall be on a case-by-case basis, and may include any or all the following:

- “Make whole” remedies for discriminatory practices.
- Establishment and issuance of policies as applicable to the violation.
- Placement into a training program or hire into a vacant position for which one may have been qualified but denied.
- Discontinue referral of participants to sites against which discrimination allegations have been alleged and proven.
- Removal of participants from sites refusing to implement corrective actions.
- Termination of this Agreement and forfeiture of Program Funding.

#### **Funds from Private Sources**

Subrecipient agrees that funds under this Agreement shall not be used to replace funds from non-Federal and non-State sources. Subrecipient further agrees to continue or initiate efforts to obtain support from private sources or other public organizations for services funded under this Agreement.

#### **Nepotism**

Costs associated with any activity defined as nepotism are unallowable. No Subrecipient may hire a person for a position funded under WIOA if a member of that person's immediate family is also employed in a decision-making capacity for the Subrecipient from which that Subrecipient obtains its funds. To the extent that an applicable State or local legal requirement regarding nepotism is more restrictive than this provision, such State or local requirement shall be followed.

#### **Sexual Harassment**

Subrecipient shall establish and maintain a written sexual harassment policy and shall inform their employees of the policy. The policy must contain a notice that sexual harassment will not be tolerated and employees who practice it will be disciplined.

#### **Drug-Free Workplace**

Subrecipient certifies that it will provide a Drug-Free Workplace by implementing the provisions of 29 CFR 98, Subpart F, Drug Free Workplace Requirements and Drug-Free Workplace Act of 1988 (Public Law 100-690, Title V, Subtitle D; 41 U.S.C. 701 et seq.; 32 CFR part 26, Subpart B).

#### **Labor Standards**

Subrecipient will perform its duties in accordance with WIOA and the regulations, procedures and standards promulgated thereunder. Subrecipient will comply with all applicable federal, state and local laws, rules, and regulations that deal with or relate to the employment of persons who

perform work or are trained under this Agreement. Such requirements include, but are not limited to:

- The Fair Labor Standards Act;
- The Davis-Bacon Act;
- The Occupational Safety and Health Act of 1970;
- Federal and State Child Labor Laws; and
- Workers' Compensation Laws.

Subrecipient shall not to use funds provided by LCWDB, including any WIOA funds, for assisting, promoting, or deterring union organizing as described in 29 U.S.C. § 2931(b)(7).

### **Americans with Disabilities Act (ADA)**

Subrecipient shall ensure compliance with The Americans with Disabilities Act of 1990, as amended; 42 U.S.C. Chapter 126; 28 CFR Part 35, which prohibits discrimination on the basis of a disability by public entities; and 29 CFR Part 1630, which requires equal employment opportunities for qualified individuals with disabilities and the employment of qualified individuals with disabilities.

Subrecipient shall ensure compliance with all applicable provisions and shall make required reasonable accommodations to provide access and equity of services to disabled persons applying to or enrolled in any program under this Agreement.

### **Whistleblower Provision**

- An employee of the Subrecipient may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing, including a disclosure made in the ordinary course of an employee's duties, to an inspector general, the Comptroller General, of the United States, a member of Congress, a state or federal regulatory or law enforcement agency, a person with supervisory authority over the employee (or such other person working for the employer who has the authority to investigate, discover, or terminate misconduct), LCWDB, a court or grand jury, the head of a federal agency, or their representatives, information that the employee reasonably believes is evidence of:
  - gross mismanagement of an agency contract or grant relating to Program Funds;
  - a gross waste of Program Funds;
  - a substantial and specific danger to public health or safety related to the implementation or use of Program Funds;
  - an abuse of authority related to the implementation or use of Program Funds; or
  - a violation of law, rule, or regulation related to an agency contract (including the competition for or negotiation of a contract) or grant, awarded or issued relating to Program Funds.
- Subrecipient shall post notice of the rights and remedies and use other appropriate means, including employee personnel policies, to notify their employees and keep them informed of protections and obligations provided under applicable Whistleblower Laws.

### **Intellectual Property**

Subrecipient warrants, represents, and covenants that nothing utilized in its performance of the Services shall infringe directly or indirectly upon any valid patent, copyright, property right, or



trademark. Subrecipient shall indemnify and hold LCWDB harmless from and against any and all costs, expenses, liabilities, and damages, including attorneys' fees, arising out of alleged or actual patent, copyright, property right, trademark or trade secret infringement resulting from Subrecipient's performance of Services.

**Definition:** The term "data" as used herein, includes written reports, drawings, studies, computer programs, and work of any similar nature that is required to be delivered under this Agreement. It does not include Subrecipient's financial reports or other information incidental to Agreement's administration.

**Rights in Data:** Data submitted to and accepted by the LCWDB, L&I, and USDOL under this Agreement shall be the property of the LCWDB, L&I, and USDOL, and all of the foregoing shall have full right to use such data for any official purpose in whatever manner deemed desirable and appropriate, including the right to reproduce, publish, or otherwise use the data for official purposes, and to authorize others to do so. Such use shall be without any additional payment to or approval by the Subrecipient.

**Copyrights:** Subrecipient relinquishes all copyrights, and other privileges to data developed under this Agreement. Subrecipient shall not include in the data any copyrighted matter without the written approval of the LCWDB unless Subrecipient provides the LCWDB with written permission of the copyright owner for the LCWDB to use such copyrighted matter in a manner provided herein.

## **Additional Requirements**

### ***Confidentiality***

The parties to this Agreement shall limit disclosure of confidential information, gained by virtue of this Agreement, within its own organization to its directors, officers, partners, employees, and its financial and legal advisors having a need to know and shall not disclose confidential information to any third party (whether an individual, corporation, or other entity) without the prior written consent of the other party.

The Subrecipient shall comply with all confidentiality requirements for wage and education records as required by the Family Educational Rights and Privacy Act of 1974 (FERPA), 20 U.S.C. 1232g; 34 CFR Part 99, as amended, WIOA and applicable departmental regulations.

### ***Access to Information***

This Agreement and any records or expenditures related thereto may be subject to disclosure under the Pennsylvania Right to Know Law 65 P.S. 67.101 *et seq.* (RTK) and the federal Freedom of Information Act, 5 U.S.C. §552 (FOIA) The Subrecipient's duty to comply with RTK and FOIA shall survive the termination of this Agreement and shall continue to the extent that Subrecipient has requested information in its possession.

### ***Public Statements and Outreach***

LCWDB and Subrecipient shall develop and execute a comprehensive outreach strategy. No funds under this Agreement shall be used to exclusively promote the Subrecipient. All press releases and public presentations performed in conjunction with the programs provided under this Agreement must be coordinated through LCWDB. Subrecipient must indicate in any press release or statement to the public related to the program that it is funded in whole or in part by LCWDB and the Pennsylvania Department of Labor and Industry. Subrecipient must include all applicable nondiscrimination taglines in all publications, including brochures, promotional flyers, program forms and electronic transmittals as follows:

**AUXILIARY AIDS AND SERVICES ARE AVAILABLE UPON REQUEST TO INDIVIDUALS WITH  
DISABILITIES. EQUAL OPPORTUNITY EMPLOYER/PROGRAM**

**ACORN**

Subrecipient agrees it will abide by Section 511 of the Consolidated Appropriations Act, 2010 (P.L. 111-117, Division E) ("CAA"), which requires that no direct or indirect funding from the CAA may be provided to the Association of Community Organizations for Reform Now (ACORN) or any of its subsidiaries through Federal grantees or contractors. The U.S. Department of Labor (USDOL) is required to take steps so that no Federal funds from the CAA are awarded or obligated by USDOL grantees or contractors to ACORN or its subsidiaries as sub-grantees, sub-contractors, or other sub-recipients. This prohibition applies not only to a direct recipient of Federal funds, but also to a sub-recipient (e.g., a sub-contractor, sub-grantee, or contractor of a grantee).

**Compliance Documents**

All parties to this Agreement will remain in compliance with federal statute and guidance, state and local policies and procedures, including, but not limited to, those provided in WIOA, the LCWDB One-Stop Partner Agreement (OSPA), the LCWDB Local Plan, and LCWDB policies, procedures, and guidelines.

In addition to the foregoing, the Subrecipient certifies that is shall remain in compliance with the following during the term of this Agreement:

- Copeland "Anti-Kickback Act", 18 U.S.C. Section 874; 29 CFR Part 3
- Contract Work Hours and Safety Standards Act, 40 U.S.C. §§327-330; 29 CFR Part 5
- Archaeological and Historic Preservation Act of 1974, 16 USCS §469a-l et seq., (P.L. 86-523, as amended)
- Protection and Enhancement of Cultural Environment, (Executive Order 11593)
- National Historic Preservation Act of 1966, 16 USCS §470, (P.L. 89-665, Section I 06, as amended)
- Clean Air Act of 1955, 42 USCS §7401 et seq., (P.L. 84-159, as amended)
- Federal Water Pollution Control Act of 1948 (also known as the "Clean Water Act") (33 USCA § 1251 et seq., P.L. 845, as amended)
- Energy Policy and Conservation Act of 1975 (P. L. 94-163)
- Endangered Species Act of 1973, 16 uses § 153 1 et seq., (P.L. 93-205, as amended)
- Fish and Wildlife Coordination Act, (P.L. 85-624, as amended)
- Floodplain Management, (Executive Order 11988, as amended by Executive Order 12148)
- Environmental Justice, (Executive Order 12898)
- Protection of Wetlands, (Executive Order 11990)
- Farmland Protection Policy Act, 7 USCS §4201 et seq., (P.L. 97-98)
- National Environmental Policy Act of 1969, (P.L. 9 1-190)
- Safe Drinking Water Act of 1974, (P.L. 93-523, Section 1424(e), as amended)

- Wild and Scenic Rivers Act of 1968, 16 USCS § 1271 et seq., (P.L. 90-542, as amended)
- Environmental Protection Agency regulations, Title 40 of the Code of Federal Regulations (including, without limitation, 40 CFR part 15)
- Procurement of Recovered Materials - §200.322
- Promoting the Use of Women's and Minority Business Enterprise, (Executive Orders 11625, 12138 and 12342)
- Title IX of the Education Amendments of 1972, as amended, 20 USCS §1681 - 1685 and 1686, Prohibition against Sex Discrimination
- Rehabilitation Act of 1973, 29 uses §794, (P.L. 93-112 Section 504, as amended. Executive Orders 11914 and 11499)
- Section 13 of the Federal Water Pollution Control Act Amendments of 1972, (P.L. 92-500), (Clean Water Act)
- Age Discrimination Act of 1975, 42 USCS §6 101-6 107, (P.L. 94-135, as amended)
- Drug Abuse Office and Treatment Act of 1972, (P.L. 92-255)
- Comprehensive Alcohol Abuse and Alcoholism, Prevention, Treatment, and Rehabilitation Act (P.L. 96-180)
- Public Health Service Act of 19 12, 42 USCS §290 dd-3 and §290 ee-3, §523 and §527 37.4.15.
- Section 129 of the Small Business Administration Reauthorization and Amendment Act of 1988, (P.L. I 00-590)
- Procurement Prohibitions under Clean Air Act, Section 306; Clean Water Act, Section 508; and Executive Order 11 738
- Demonstration Cities and Metropolitan Development Act of 1966, (Executive Order 12372, P.L. 89-754, as amended)
- Uniform Relocation and Real Property Acquisition Policies Act of 1970, Titles II and III, (P.L. 91-646, as amended)
- Requirement to Provide Certain Information in Public Communications: Pursuant to P.L. 116-94, Division A, Title V, Section 505, when issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with Federal money, all non-Federal entities receiving Federal funds shall clearly state:
  1. The percentage of the total costs of the program or project which will be financed with Federal money;
  2. The dollar amount of Federal funds for the project or program; and
  3. The percentage and dollar amount of the total costs of the project or program that will be financed by non-governmental sources.

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

### Cost Principles, Administrative Requirements, and Audit Requirements

- OMB 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards

## Representation

Representatives of the Parties to this Agreement are as follows:

### For LCWDB:

Technical/Performance Issues	Valerie Hatfield, Director of Compliance <a href="mailto:vhatfield@lancastercountywib.com">vhatfield@lancastercountywib.com</a>
Fiscal Contract Issues	Anibal Aponte, Fiscal Manager <a href="mailto:aaponte@lancastrercountywib.com">aaponte@lancastrercountywib.com</a>

### For Subrecipient:

Technical/Performance Issues	_____
	_____
Fiscal Issues	_____
	_____
Contract Issues	_____
	_____

## PROTESTS/DISPUTES/CLAIMS

The following section details the dispute resolution process designed for use by the parties when they are unable to successfully reach an agreement concerning the provisions, interpretation or any other matter arising under this Agreement.

- A disagreement is considered to have reached the level of dispute resolution when an issue arises that is not easily coming to a point of resolution. It is the responsibility of the Chairperson of the LCWDB Board of Directors (or designee) to coordinate the dispute resolution to ensure that issues are resolved appropriately. Any party to this Agreement may seek resolution under this process. Any disputes shall first be attempted to be resolved informally. Should informal resolution efforts fail, the dispute resolution process must be formally initiated by the party seeking resolution. The party must send a notification to the Chairperson of the LCWDB Board of Directors (or designee) and to all parties to this Agreement regarding the conflict within ten (10) business days.
- Upon receipt of the dispute notification, the Chairperson of the LCWDB Board of Directors (or designee) shall place the dispute on the agenda of a meeting of the LCWDB Executive Committee. The Executive Committee may attempt to mediate and resolve the dispute. Disputes not so resolved shall be decided by a majority vote of the Executive Committee members present.
- The decision of the Executive Committee shall be final and binding unless such a decision is in contradiction of applicable State and Federal laws or regulations. The decision of the Executive Committee shall not be appealable. The Executive Committee must provide a written response and dated summary of the proposed resolution to all parties.

## GENERAL PROVISIONS

- Severability. The provisions of this Agreement shall be deemed to be severable. Consequently, if any provision of this Agreement is found to be void or unenforceable, such findings shall not be construed to render any other provision of this Agreement either void or unenforceable, and all other provisions shall remain in full force and effect unless the provisions which are void or unenforceable shall substantially affect the rights or obligations granted to or undertaken by either party.
- Reservation of Rights. Any termination or assignment of this Agreement shall not relieve or release either party hereto from any rights, liabilities, or obligations which it has accrued under law or under the terms of this Agreement prior to the date of such termination or assignment.
- Failure to Enforce No Waiver. Any failure on the part of the LCWDB to enforce any provisions of this Agreement or to take any action to which it may be entitled with respect to any breach of the terms and provisions hereof by the Subrecipient at any time shall not nor be deemed to be a waiver by the LCWDB of such rights, and the LCWDB shall at all times have the right to enforce each and every provision hereof and to pursue any appropriate legal or equitable remedy for any breach, past or present, of the terms hereof by the Subrecipient.
- Choice of law; venue. This Agreement will be interpreted, and the rights and obligations of the parties hereto determined, in accordance with the laws of the Commonwealth of Pennsylvania. In the event of an appeal pursuant to Section 18 regarding State or Federal laws or regulations, venue for such appeals and challenges shall lie in the state and federal courts having jurisdiction in Dauphin County, Pennsylvania. Nothing contained herein shall prohibit the parties from pursuing alternate methods of dispute resolution as they may agree.
- Severability. Each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law; however, if any provision of this Agreement will be prohibited by or invalid under applicable law, that provision will be ineffective only to the extent of the prohibition or invalidity, without invalidating the remainder of the provision or the remaining provisions of this Agreement.
- Assignability. Neither this Agreement, nor any rights or duties hereunder may be assigned by Contractor without prior written approval of SCPa Works, which may be granted or denied in its sole discretion.
- Amendments. No change, modification, amendment, or addition of or to this Agreement shall be valid unless in writing and signed by each of the parties.
- Entire agreement. This Agreement expresses the entire understanding and agreement of the parties with respect to the subject matter hereof and supersedes all prior understandings and agreements of the parties regarding the same subject matter.
- Authority of signatories. The persons executing this Agreement on behalf of parties hereof represent and warrant that (a) the execution and delivery of this Agreement is duly authorized, (b) he or she is authorized to execute and deliver this Agreement, (c) this Agreement is the valid and binding obligation of each party, enforceable in accordance with its terms, and (d) the consent of no other party claiming through or under any of the parties is required to effectuate the terms hereof.

- Counterparts. This Agreement may be executed in any one or more counterparts, the originals of which, when taken together and bearing the signatures of all parties to this Agreement, shall constitute one and the same Agreement. Signatures transmitted via facsimile or e-mail shall have the same binding effect as original signatures.

The parties acknowledge that the attached "Certification and Signature Sheet" is incorporated with this Agreement and will serve as the authorized signature to fully execute this Agreement on behalf of their respective organizations and that they will exercise due diligence and good faith in carrying out the principles and obligations stated herein.

IN WITNESS WHEREOF, intending to be legally bound hereby, the parties hereto have caused this Administrative and Financial Agreement to be executed as of the last day and year written below.

**SUBRECIPIENT:**

\_\_\_\_\_

BY:

Name:  
Title:

Date

**LCWDB:**

**LANCASTER COUNTY WORKFORCE  
DEVELOPMENT BOARD**

BY:

\_\_\_\_\_  
John Moser, Interim Executive Director

\_\_\_\_\_  
Date

**Administrative and Financial Agreement  
Authority, Certification and Signature**

Name of Organization:
Address:
Phone:
Fax:
Subrecipient Representative Name:
Title:
Phone:
Email:

I hereby certify that all information is true and accurate to the best of my knowledge.

I acknowledge that I have a complete copy of the AFA and fully understand that failure to abide by the terms, conditions and provisions of the AFA will constitute a breach of the Agreement.

I certify that I have the authority to commit the named organization to the terms of this Agreement.

**Signature** \_\_\_\_\_

**Date** \_\_\_\_\_