



TERMS AND CONDITIONS

(COMPETITIVE GRANTS FOR NONPROFIT ORGANIZATIONS PROVIDING SERVICES TO VICTIMS OF HUMAN TRAFFICKING)¹

1. PARTIES

The parties to the Grant Agreement shall be:

- a. The qualified human trafficking service organization awarded funding (“the GRANTEE”);
- b. The North Carolina Human Trafficking Commission (“the HTC”), which is a State governmental entity established in the North Carolina Administrative Office of the Courts pursuant to G.S. § 7A-354;
- c. The North Carolina Administrative Office of the Courts (“the NCAOC”), a State governmental entity within the North Carolina Judicial Branch which provides administrative and fiscal support services to the HTC.

The GRANTEE, the HTC, and the NCAOC shall be collectively referred to as “the Parties” or individually as “a Party.”

2. SOURCE OF FUNDING AND TERM OF THE GRANT

- a. Section 16.21.(a) of the Operations Appropriations Act of 2021, S.L. 2021-180 (“2021 Appropriations Act”), as amended by S.L. 2023-11, appropriates \$4,400,000 in nonrecurring funding in fiscal year 2021-22 to the NCAOC and HTC to develop and implement a grant program to provide funds to eligible organizations for economic assistance and to enhance services to victims of human trafficking. The General Assembly appropriated this \$4,400,000 from federal dollars appropriated to the State of North Carolina under the American Rescue Plan Act of 2021, Pub. L. No. 117-2, codified in 42 U.S.C. §§ 802 and 803 (“ARPA”), establishing the Coronavirus State Fiscal Recovery

¹ These Terms and Conditions will be included in the Grant Agreement and are subject to change before the final execution of the Grant Agreement

Fund ("SFRF").

- b. The Office of State Budget and Management (OSBM) has determined that this project is the provision of government services within the state's calculated reduction of revenue due to the COVID-19 public health emergency, to be administered and reported under Expenditure Category 6.1 under the U.S. Treasury's Compliance and Reporting Guidance (updated August 15, 2022). 31 C.F.R. Part 35
- c. The U.S. Treasury has determined that there are no subawards of federal ARPA funds designated as "Revenue Replacement." See Sections 13.13., 13.14, and 13.15 of U.S. Treasury's SFRF Final Rule: Frequently Asked Questions document. Thus, the GRANTEE is a beneficiary of federal funds, rather than a federal subrecipient or contractor. Beneficiaries receiving federal funds designated as revenue replacement, like the GRANTEE, are not subject to federal audit pursuant to the Single Audit Act and 2 C.F.R. Part 200, Subpart F. See Section I.D.11 of U.S. Treasury's Compliance and Reporting Guidance (updated June 6, 2023). Beneficiaries, like the GRANTEE, are subject to restrictions on the allowable use of ARPA funds under the U.S. Treasury's Compliance and Reporting Guidance, 31 CFR Part 35, which are incorporated by reference into the Grant Agreement.
- d. GRANTEE is subject to the requirements of the Uniform Guidance, 2 C.F.R. Part 200, except such provisions the U.S. Treasury determined are inapplicable to the award. The U.S. Treasury's 2022 Compliance Supplement provided that the requirements of 2 C.F.R. Part 200 are applicable unless stated otherwise. See Sections 13.13., 13.14, and 13.15 of U.S. Treasury's SFRF Final Rule: Frequently Asked Questions document.
- e. The GRANTEE is also considered a subrecipient of State financial assistance for purposes of this Grant Agreement. See G.S. § 143C-6-22 ("Use of State funds by non-State entities") and G.S. § 143C-6-23 ("State grant funds: administration, oversight and reporting requirements"). The GRANTEE is subject to reporting, monitoring, audit, and closeout requirements under State law, as set forth herein.
- f. The Grant Agreement contains both State and federal requirements. In the case of a conflict between State and federal requirements, the federal requirements shall take precedence. If the General Assembly's allocation of SFRF funds is found to be disallowed by federal law, the disallowed allocation is repealed, and the Office of State Budget and Management (OSBM) must transfer the amount of the disallowed allocation back to the SFRF. If such disallowed funds have been allocated to the GRANTEE, and the GRANTEE'S use of funds is disallowed by federal law, the GRANTEE must return the disallowed, repealed allocation to the NCAOC and HTC to transfer to OSBM. See Section 4.9.(c) of the 2021 Appropriations Act.
- g. The GRANTEE may use grant funding that it is awarded in the Grant Agreement during the

Performance Period that begins on Contract Execution, and ends two (2) years from Contract Execution, to cover eligible costs incurred. Contract Execution means the first day on which the Grant Agreement has been signed by both Parties. Any funds not expended for eligible uses during the two (2) year Performance Period, must be returned to the NCAOC and the HTC, as part of the award closeout process under Section 11, below, and pursuant to 2 C.F.R. § 200.344(d), unless the NCAOC and the HTC agree in writing to an extension.

- h. As provided in Section 21 (Survival), some of the Parties' duties shall survive the termination of the Grant Agreement.

3. AWARD OF GRANT FUNDS

- a. The NCAOC and HTC shall allocate Grant Funds to the GRANTEE (the "Grant Funds") in an amount not to exceed \$(this amount will depend on the amount awarded). Payments will begin after Contract Execution and will be made in increments as determined by the HTC based on a risk assessment, approval of the GRANTEE's financial reports, and only after the GRANTEE has submitted a complete detailed proposal.
- b. Agencies with an approved need to draw down additional funding outside of quarterly scheduled payments may make a request to the HTC through a provided form.
- c. Section 16.21.(c) specifies that there could be a subsequent round of grants.
- d. This award of Grant Funds is subject to the allocation and appropriation of funds to the HTC and the NCAOC for the purpose set forth below.

4. PURPOSE AND ELIGIBILITY

- a. The Grant Funds are provided to the GRANTEE for economic assistance and to enhance services to victims of human trafficking. Pre-award costs, as defined in 2 C.F.R. § 200.458, may not be paid with funding from this award.
- b. The GRANTEE must be eligible to receive the Grant Funds pursuant to Section 16.21.(b)(1) of S.L. 2021-180, as amended by S.L. 2023-11, which requires that GRANTEE must:
 - i. Be a nonprofit corporation;
 - ii. Provide direct services to victims of human trafficking, which may include case management, client safety, client well-being, and other services, including health, transportation, housing, education, and employment assistance; and
 - iii. Be ineligible for a grant under the provisions of G.S. 50B-9 ("Domestic Violence Center Fund") and G.S. 143B-394.21 ("Sexual Assault and Rape Crisis Center Fund").
- c. GRANTEE hereby warrants that it meets the eligibility requirements in Section 16.21.(b)(1) of S.L. 2021-180, as amended by S.L. 2023-11.

5. GRANTEE'S DUTIES

- a. Each GRANTEE shall submit to the HTC a detailed proposal of its need for economic assistance and how GRANTEE will enhance services to victims of human trafficking. The proposal shall include all of the following:
 - i. A description of the geographic area the organization serves and the needs of victims of human trafficking in that area.
 - ii. A plan to address the needs of victims, including the goals and objectives of each service.
 - iii. The time line for implementing each service to achieve the desired objective and the names of any partners with whom the organization will be working and the role of those partners in the service.
 - iv. A description of each service to be delivered, which may include case management, client safety, client well-being, and other services, including health, transportation, housing, education, and employment assistance.
 - v. The anticipated planning and administrative costs for each service, sorted by type, including staffing, fixed costs, contracts, and information technology.
 - vi. A description of the organization's capacity to implement its plan to enhance services to address the needs of victims, including the organization's staffing level, systems, partnerships, existing funding, and existing programs.
 - vii. A description of the applicant's plans and capability to continue each service after the Grant Funds are expended, if the applicant plans to do so.
 - viii. Any additional information deemed appropriate by the Commission.
- b. The GRANTEE's proposal must be attached to the Grant Agreement as Appendix A and shall be incorporated by reference into the Grant Agreement. The GRANTEE is responsible for making any updates to its proposal necessary to reflect the amount of Grant Funds awarded prior to execution of the Grant Agreement. The GRANTEE shall correct any deficiency in its grant proposal that the HTC notifies GRANTEE of prior to the disbursement of funds.
- c. The GRANTEE must obtain the HTC's prior written consent in order to reallocate or redistribute between budgeted items in the proposal.
- d. The GRANTEE, if it has not already done so, must provide the following documentation before the HTC allocates any Grant Funds to it:
 - i. Vendor Electronic Payment Form (Office of the State Controller);
 - ii. State of North Carolina Substitute W-9 form;
 - iii. Conflict of interest policy on the provided form;
 - iv. **Sworn** Statement of no overdue tax debts;
 - v. Signed Federal Funding Accountability and Transparency Act (FFATA) annual certification on the provided form;

- vi. Copy of the agency's SAMS registration with Unique Entity Identifier.
- e. The GRANTEE must comply with all applicable provisions outlined in G.S. § 143C-6-22 ("Use of State funds by non-State entities"), G.S. § 143C-6-23 ("State grant funds: administration, oversight and reporting requirements"), and 9 N.C.A.C. Subchapter 3M, as well as Section 16.21 of the 2021 Appropriations Act, S.L. 2021-180, as amended by S.L. 2023-11.
- f. The GRANTEE must ensure that any interest earnings on Grant Funds shall be used for the same purposes as the Grant Funds under the Grant Agreement in compliance with G.S. § 143C-6-23(j).
- g. The GRANTEE must comply with the cost principles in 2 C.F.R. Part 200, Subpart E, which are incorporated by reference in 09 N.C.A.C. 03M .0201. By way of example and without limitation, those cost principles include:
 - i. Costs must meet the following general criteria in order to be allowable under 2 C.F.R. § 200.403:
 - a) Be **necessary and reasonable** for the performance of the award and be **allocable** thereto under these principles. *See also* 2 C.F.R. §§ 200.404 and 200.405.
 - b) Conform to any **limitations or exclusions** set forth in these principles or in the award as to types or amount of cost items.
 - c) Be **consistent with policies and procedures** that apply uniformly to both State-financed and other activities of the GRANTEE.
 - d) Be accorded **consistent treatment**. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the Federal award as an indirect cost.
 - e) Be determined in accordance with **generally accepted accounting principles** ("GAAP").
 - f) Not be included as a cost or used to meet cost sharing or matching requirements of any other State-financed program in either the current or prior period.
 - g) Be **adequately documented**. *See also* 2 C.F.R. §§ 200.300 through 200.309 of Subpart E.
 - h) A cost must be **incurred during the approved budget period**.
 - ii. Certain costs are unallowable, including by way of example and without limitation:
 - a) No more than one hundred twenty thousand dollars (\$120,000) for the annual salary of any individual employee. S.L. 2021-180 § 5.3.
 - b) Alcoholic beverages. 2 C.F.R. § 200.423.
 - c) Bad debts. 2 C.F.R. § 200.246.
 - d) Contributions and donations to other entities. 2 C.F.R. § 200.434.
 - e) Deposits into any pension funds. 31 C.F.R. § 35.7.
 - f) Satisfaction of a judgement or settlement. 31 C.F.R. § 35.

- g) Contributions to a rainy-day fund or reserve. 31 C.F.R. § 35.
- h) Expenditures not made to enhance services to victims of human trafficking approved by the Commission pursuant to Section 5.a. and b. of these terms and Section 16.21 of S.L. 2021-180, as amended by S.L. 2023-11.
- iii. Costs or improvements which add to the permanent value of the buildings and equipment or appreciably prolong their intended life must be treated as capital expenditures. 2 C.F.R. § 200.439. Capital expenditures for general purpose equipment, buildings, and land require written approval of the NCAOC and HTC, and this Agreement shall constitute such approval to the extent that the capital expenditures are set forth in the attached proposal.
- iv. Indirect costs must not exceed the GRANTEE's federal negotiated indirect cost rate ("NICRA") or, if the GRANTEE does not have a NICRA and is eligible to use the *de minimis* indirect cost rate under 2 C.F.R. § 200.414(f), indirect costs must not exceed the *de minimis* rate of ten percent (10%). See 2 C.F.R. § 200.414.
- h. The GRANTEE shall comply with 9 N.C.A.C. 3M.0205 (entitled "Minimum Reporting Requirements for Recipients and Subrecipients"), a copy which is attached as Appendix B and is hereby incorporated into the Grant Agreement by reference.
- i. Pursuant to G.S § 143C-6-8, the GRANTEE understands and agrees that its receipt of Grant Funds shall be subject to the availability of appropriated funds.
- j. The GRANTEE shall comply with all other requirements of the Grant Agreement, such as funds management, reporting, records retention, and audit requirements set forth below.
- k. The GRANTEE must comply with 2 C.F.R. § 200.300 of the Uniform Guidance regulations, which requires Grant Funds to be managed and administered in a manner so as to ensure that Federal funding, including the Grant Funds, is expended and associated programs are implemented in full accordance with the U.S. Constitution, Federal Law, and public policy requirements including, without limitation, the following:
 - i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and Treasury's implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance;
 - ii. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;
 - iii. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance;
 - iv. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and

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Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance;

- v. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto; and
 - vi. Executive Order 13279 titled Equal Protection of the Laws for Faith-Based and Community Organizations provides that all organizations that receive Federal financial assistance under social services programs are prohibited from discriminating against beneficiaries or potential beneficiaries on the basis of religion or religious belief; and Federal grant funds, including the Grant Funds awarded in this Grant Agreement, must be administered in accordance with the Establishment Clause and the Free Exercise Clause of the First Amendment to the Constitution.
- I. By entering this Grant Agreement, the GRANTEE certifies that it is in compliance with Title VI of the Civil Rights Act and must cooperate in demonstrating its compliance with the applicable requirements before and after receiving the Grant Funds. Treasury's implementing regulations, 31 C.F.R. Part 22, and the Department of Justice regulations, Coordination of Non-discrimination in Federally Assisted Programs, 28 C.F.R. Part 42, provide for the collection of data and information from the GRANTEE. See 28 C.F.R. § 42.406. Treasury, the NCAOC, or the NCHTC may request that the GRANTEE submit data for post-award compliance reviews, including information such as a narrative describing its Title VI compliance status.

6. HTC'S AND NCAOC'S DUTIES AND PAYMENT PROVISIONS

- a. The HTC and the NCAOC shall ensure that the Grant Funds are used in compliance with the intent and guidance found in Section 16.21 of S.L. 2021-180, as amended by S.L. 2023-11, and ensure compliance with related State statutes, rules, and financial management standards.
- b. Prior to disbursing any State financial assistance, the HTC and the NCAOC shall:
 - i. Register the grant program funded under Section 16.21 of S.L. 2021-180, as amended by S.L. 2023-11 with the Office of State Budget and Management in the format and method specified by the Office of State Budget and Management.
 - ii. Execute a Grant Agreement with the GRANTEE that complies with the requirements of 9 N.C.A.C. Subchapter 3M.
 - iii. Report each individual award to the Office of State Budget and Management in the format and method specified by the Office of State Budget and Management.
 - iv. Follow the procedures for disbursement of State financial assistance.

- c. The HTC and the NCAOC are also subject to the following requirements:
 - i. The HTC and the NCAOC will develop a financial and performance reporting document for GRANTEE's use that shall incorporate the requirements of 9 N.C.A.C. 3M.0205 and require the GRANTEE to:
 - a) Certify that Grant Funds received or held were used for the intended purpose.
 - b) Provide an accounting for Grant Funds received, interest earned, and funds expended.
 - c) Provide activities, accomplishments, and performance measures.
 - d) Provide supporting invoices, contracts, or other documentation to support all expenditures of Grant Funds.
 - ii. The HTC and the NCAOC shall provide a method for submitting the financial and performance reports.
 - iii. The HTC and the NCAOC shall conduct financial and performance monitoring related to the Grant Funds and shall ensure compliance with the Grant Agreement.
 - iv. The HTC and the NCAOC shall comply with applicable reporting requirements in the Federal Funding Accountability and Transparency Act (FFATA).

7. FUNDS MANAGEMENT

- a. The GRANTEE shall expend the Grant Funds in accordance with 2 C.F.R. Part 200, Subpart E (Cost Principles), as required by 09 N.C.A.C 03M.0201 for awards of State funding to non-State entities. See Section 5.g. above for some examples from the Cost Principles.
- b. The GRANTEE must maintain reports and accounting records that support the allowable expenditure of the Grant Funds.
- c. The GRANTEE must manage and account for Grant Funds and interest earned thereon in a separate fund and accounting structure within the GRANTEE's central accounting or grant management system so that those funds remain separate and apart from the other funds in the possession or control of the GRANTEE.
- d. The GRANTEE must manage all accounts payable disbursements, check register disbursements, and related transactions in a detailed manner that supports fully transparent accounting of all financial transactions associated with the Grant Funds.
- e. Expenditures for travel mileage, meals, lodging and other travel expenses incurred in the performance of the Grant Agreement shall be reasonable and supported by documentation. The Judicial Branch Travel Policy's rates should be used as guidelines. International travel shall not be eligible under the Grant Agreement.

8. GRANT ADMINISTRATORS

All notices permitted or required to be given by one Party to the other and all questions about

the Grant Agreement from one Party to the other shall be addressed and delivered to the other Party's Grant Administrator. The name, post office address, street address, telephone number, fax number, and email address of the Parties' respective initial Grant Administrators are set out below. Either Party may change the name, post office address, street address, telephone number, fax number, or email address of its Grant Administrator by giving timely written notice to the other Party. The GRANTEE is also required to provide its Tax Identification Number and its fiscal year end date in the chart below.

GRANTEE and HTC Points of Contact and Other Information	
GRANTEE'S Grant Administrator	HTC's Grant Administrator
Name:	Name: Kathy Estrada
Title:	Title: Grants Administrator
Address:	Address: P.O. Box 2448 901 Corporate Center Drive Raleigh, NC 27602
Direct Phone:	Direct Phone: (919) 890-1431
Email:	Email: Kathy.I.Estrada@nccourts.org
Fiscal year end date:	
Federal Employer Identification Number (EIN):	
Federal Unique Entity Identifier (SAMS.gov):	

9. POST-GRANT AWARD REPORTING AND DOCUMENTATION REQUIREMENTS

- a. On or before December 1, 2023 and every six (6) months thereafter until all Grant Funds are expended, the GRANTEE shall submit a report to the HTC that includes all of the following:
 - i. Progress on the development and implementation of each of its services provided under its grant proposal.
 - ii. Progress on meeting goals and objectives for each of these services.
 - iii. The number of human trafficking victims assisted through each of these services.
 - iv. A description and explanation of any delays in implementation of these services.
 - v. A description and explanation of any changes in the grant proposal.
 - vi. Planning and administrative costs to date for each of these services, sorted by type, including staffing, fixed costs, contracts, and information technology.
 - vii. Any additional information required by the Commission.

- b. Within sixty (60) days after all Grant Funds have been expended or within sixty (60) days

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after the two (2) year Performance Period ends, whichever occurs first, the GRANTEE agrees to submit to the HTC a complete and final expenditure and performance reports in accordance with 09 N.C.A.C. 03M.0205 (entitled “Minimum Reporting Requirements for Recipients and Subrecipients”), a copy of which is attached as Appendix B and incorporated herein by reference. The HTC shall provide the format and method for reporting. All reports and supporting documents shall include the GRANTEE’s information and shall be submitted via the method to be specified by the HTC and the NCAOC.

- c. The GRANTEE agrees that all activity reported shall be subject to review and verification. GRANTEE must provide access to work papers, receipts, invoices, and reporting records upon the NCAOC’s, the HTC’s, or the State Auditor’s request.

10. MONITORING AND AUDITING

- a. The GRANTEE acknowledges and agrees that, from and after the date of execution of the Grant Agreement and for five (5) years following either its termination or the resolution of all audit exceptions (whichever occurs last), the books, records, documents, and facilities of the GRANTEE are subject to being audited, inspected, and monitored at any time by the HTC upon its request (whether in writing or otherwise). The GRANTEE further agrees to provide NCAOC and HTC staff and staff of the North Carolina Office of State Auditor with access to financial and accounting records to support internal audit, financial reporting, and related requirements.
- b. The GRANTEE acknowledges and agrees that such audit and reporting requirements may vary depending upon the amount and source of Grant Funds and are subject to change.

11. AGREEMENT CLOSE-OUT PROCESS

- a. The GRANTEE must comply with the reporting requirements in Section 9.b., above.
- b. All unexpended Grant Funds must revert effective not later than sixty (60) days after the two (2) year Performance Period ends, unless the HTC and NCAOC have issued a grant extension in writing.
- c. The GRANTEE will be deemed noncompliant if its final report is not submitted on or before sixty (60) days after the Performance Period ends, unless the HTC and NCAOC have issued a grant extension in writing. Once the complete final expenditure and performance report package has been received and evaluated by the HTC and the NCAOC, the HTC or the NCAOC will notify the GRANTEE of the close-out of the Grant Agreement.

12. TAXES

The GRANTEE shall be considered to be an independent contractor for purposes of the Grant

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Agreement and shall be responsible for all taxes in connection with the Grant Agreement. The GRANTEE agrees to provide the HTC and the NCAOC with the GRANTEE'S correct taxpayer identification number on the chart in Section 8, above. The GRANTEE agrees that a failure to provide a correct taxpayer identification number authorizes the NCAOC and the HTC to withhold any amount due and payable under the Grant Agreement.

13. GOVERNING LAW AND VENUE

The Grant Agreement shall be governed by the laws of North Carolina without regard to conflict of law principles. The Parties agree that personal jurisdiction and venue for any claim arising out of the Grant Agreement shall be in the North Carolina General Court of Justice located in Wake County, North Carolina.

14. COMPLIANCE WITH LAW

As an independent contractor, the GRANTEE shall be wholly responsible for the proposal to be performed under the Grant Agreement and for the supervision of its employees, and agents. The GRANTEE shall be responsible for compliance with all laws, ordinances, codes, rules, regulations, licensing requirements, and other regulatory mandates that are applicable to the conduct of its business or performance under the Grant Agreement, including those of Federal, State, and local agencies having jurisdiction.

The GRANTEE acknowledges and agrees that, in its conduct under the Grant Agreement and in connection with any and all expenditures of Grant Funds made by it, it shall comply with the cost principles enunciated in the Code of Federal Regulations, 2 CFR, Part 200, Subpart E.

15. NONCOMPLIANCE

- a. If the GRANTEE does not comply with the requirements of the Grant Agreement, the HTC or the NCAOC shall:
 - i. Communicate the requirements to the GRANTEE;
 - ii. Require a response from the GRANTEE upon a determination of noncompliance; and
 - iii. Suspend payments of Grant Funds to the GRANTEE until the GRANTEE is in compliance.
- b. If the HTC or the NCAOC discovers evidence of management deficiencies or criminal activity leading to the misuse of Grant Funds, the HTC or the NCAOC will notify the Office of State Budget and Management and take appropriate actions, such as:
 - i. Suspending payments until the matter has been fully investigated and corrective action has been taken;
 - ii. Terminating the Grant Agreement and taking action to retrieve unexpended funds or unauthorized expenditures; and
 - iii. Reporting possible violations of criminal statutes involving misuse of State property

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to the State Bureau of Investigation in accordance with G.S. § 143B-920.

- c. Upon determination of noncompliance with requirements of the Grant Agreement that are not indicative of management deficiencies or criminal activity, the HTC or the NCAOC shall give the GRANTEE sixty (60) days written notice to take corrective action. If the GRANTEE has not taken appropriate corrective action after the 60-day period, the HTC or the NCAOC shall notify the Office of State Budget and Management and take appropriate actions, such as:
 - i. Suspending payments pending negotiation of a plan of corrective action;
 - ii. Terminating the Grant Agreement and taking action to retrieve unexpended funds or unauthorized expenditures; and
 - iii. Offsetting any future payments with any amounts improperly spent.

16. INDEMNIFICATION

The GRANTEE agrees to indemnify, defend, and hold harmless the HTC, the NCAOC, the State of North Carolina, and any of their respective officers, agents, and employees, from any claims of third parties arising out of any act or omission of the GRANTEE in connection with the performance of the Grant Agreement.

17. INSURANCE

- a. During the term of the Grant Agreement, the GRANTEE shall provide, at its sole cost and expense, commercial insurance of such types and with such terms and limits as may be reasonably associated with the Grant Agreement. At a minimum, the GRANTEE shall provide and maintain the following coverage and limits:
 - i. **Worker's Compensation Insurance:** The GRANTEE shall provide and maintain worker's compensation insurance, as required by the laws of the states in which its employees work, covering all of the GRANTEE's employees who are engaged in any work under the Grant Agreement.
 - ii. **Employer's Liability Insurance:** The GRANTEE shall provide employer's liability insurance, with minimum limits of \$500,000.00, covering all of the GRANTEE's employees who are engaged in any work under the Grant Agreement.
 - iii. **Commercial General Liability Insurance:** The GRANTEE shall provide commercial general liability insurance on a comprehensive broad form on an occurrence basis with a minimum combined single limit of \$1,000,000.00 for each occurrence.
 - iv. **Automobile Liability Insurance:** The GRANTEE shall provide automobile liability insurance with a combined single limit of \$500,000.00 for bodily injury and property damage; a limit of \$500,000.00 for uninsured/under insured motorist coverage; and a limit of \$2,000.00 for medical payment coverage. The GRANTEE shall provide this insurance for all automobiles that are:
 - a) owned by the GRANTEE and used in the performance of the Grant Agreement;
 - b) hired by the GRANTEE and used in the performance of the Grant Agreement; and

- c) owned by GRANTEE's employees and used in performance of the Grant Agreement ("Non-Owned Vehicle Insurance"). Non-Owned Vehicle Insurance protects employers when employees use their personal vehicles for work purposes. Non-Owned Vehicle Insurance supplements, but does not replace, the car-owner's liability insurance.

The GRANTEE is not required to provide and maintain automobile liability insurance on any vehicle – owned, hired, or non-owned -- unless the vehicle is used in the performance of the Grant Agreement.

- b. The insurance coverage minimums specified in subsection a. are exclusive of defense costs.
- c. The GRANTEE understands and agrees that the insurance coverage minimums specified in subsection a. are not limits or caps on the GRANTEE'S liability or obligations under the Grant Agreement.
- d. The GRANTEE may obtain a waiver of any one or more of the requirements in subsection a. by demonstrating that it has insurance that provides protection that is equal to or greater than the coverage and limits specified in subsection a. The HTC and the NCAOC shall determine whether such a waiver shall be granted.
- e. Providing and maintaining the types and amounts of insurance or self-insurance specified in this section is a material obligation of the GRANTEE.
- f. The GRANTEE shall only obtain insurance from companies that are authorized to provide such coverage and that are authorized by the Commissioner of Insurance to do business in the State of North Carolina. All such insurance shall meet all laws of the State of North Carolina.
- g. The GRANTEE shall comply at all times with all lawful terms and conditions of its insurance policies and all lawful requirements of its insurer(s).
- h. The GRANTEE shall demonstrate its compliance with the requirements of this section by submitting certificates of insurance upon the HTC's request.

18. TERMINATION OF AGREEMENT FOR CONVENIENCE

The Grant Agreement may be terminated by mutual consent upon sixty (60) days written notice to the other Party or as otherwise provided by law. As soon as reasonably possible following termination of the Grant Agreement, the GRANTEE must transfer any unexpended Grant Funds to the HTC.

19. AMENDMENTS

The Grant Agreement may only be modified in a written amendment executed by authorized representatives of each Party.

20. NO THIRD-PARTY RIGHTS

The Parties do not intend to create in any other individual or entity the status of third-party beneficiary, and the Grant Agreement shall not be construed so as to create such status. The rights, duties, and obligations contained in the Grant Agreement shall operate only by and between the Parties and shall inure solely to the benefit of the Parties.

21. SURVIVAL

The Parties' duties of recordkeeping, monitoring, reporting, and auditing shall survive after the expiration of the term or other termination of the Grant Agreement. Also, the terms and conditions of the Grant Agreement that, by their nature, are intended to survive after termination, such as provisions related to the return of unexpended funds, taxes, indemnification, governing law and venue, noncompliance, no third party rights, severability, no waiver, force majeure, immunities, counterparts and signatures, and the authorized signature warranty, shall survive after the expiration of the term or other termination of the Grant Agreement.

22. SEVERABILITY

If any provision of the Grant Agreement is determined to be invalid under any applicable law, it shall be reformed and construed so that it shall be valid, legal, and enforceable to the maximum extent permitted by law.

23. NO WAIVER

Neither the failure nor any delay on the part of a Party to exercise any right, remedy, power, or privilege under the Grant Agreement shall operate as a waiver or prevent any subsequent enforcement of such term or obligation.

24. FORCE MAJEURE

No Party shall be deemed to be in default of its obligations under the Grant Agreement if it is prevented from performing such obligations as a result of events beyond its reasonable control, including without limitation, fire, power failures, any act of war, hostile foreign action, nuclear explosion, riot, civil insurrection, pandemic, earthquake, hurricane, tornado, or other catastrophic natural event or act of God.

25. IMMUNITIES

The NCAOC and the HTC are governmental entities within the State of North Carolina. The NCAOC and the HTC do not waive any immunities (e.g., sovereign, judicial, absolute, public official, or qualified) by entering into the Grant Agreement.

26. COUNTERPARTS AND SIGNATURES

The Grant Agreement may be executed by facsimile or digital signature, and in counterparts, each of which (including signature pages) will be deemed an original, but all of which together will constitute one and the same instrument. To the extent signed in handwriting and then delivered by means of electronic transmission in portable document format ("PDF"), the Grant Agreement shall be treated in all manner and respects as an original agreement or instrument and shall be considered to have the same force and legal effect as an original signature.

27. AUTHORIZED SIGNATURE WARRANTY

The undersigned represent and warrant that they are authorized to bind their respective principals to the terms of the Grant Agreement.

APPENDIX A
PROGRAM PROPOSAL AND BUDGET *(TO BE ADDED AT CONTRACT SIGNING)*

APPENDIX B
09 N.C.A.C. 03M.0205

09 NCAC 03M .0205 MINIMUM REPORTING REQUIREMENTS FOR RECIPIENTS AND SUBRECIPIENTS

(a) For the purposes of this Subchapter, there are three reporting levels established for recipients and subrecipients receiving State financial assistance. Reporting levels are based on the level of State financial assistance from all funding sources. The reporting levels are:

- (1) Level I – A recipient or subrecipient that receives, holds, uses, or expends State financial assistance in an amount less than twenty-five thousand dollars (\$25,000) within its fiscal year.
- (2) Level II - A recipient or subrecipient that receives, holds, uses, or expends State financial assistance in an amount of at least twenty-five thousand (\$25,000) or greater, but less than five hundred thousand dollars (\$500,000) within its fiscal year.
- (3) Level III – A recipient or subrecipient that receives, holds, uses, or expends State financial assistance in an amount equal to or greater than five hundred thousand dollars (\$500,000) within its fiscal year.

(b) Agencies shall establish reporting requirements for recipients that meet the following reporting standards on an annual basis:

- (1) All recipients and subrecipients shall provide a certification that State financial assistance received or, held was used for the purposes for which it was awarded.
- (2) All recipients and subrecipients shall provide an accounting of all State financial assistance received, held, used, or expended.
- (3) Level II and III recipients and subrecipients shall report on activities and accomplishments undertaken by the recipient, including reporting on any performance measures established in the contract.
- (4) Level III recipients and subrecipients shall have a single or program-specific audit prepared and completed in accordance with Generally Accepted Government Auditing Standards, also known as the Yellow Book.

(c) All reports shall be filed with the disbursing agency in the format and method specified by the agency no later than three months after the end of the recipient's fiscal year, unless the same information is already required through more frequent reporting. Audits must be provided to the funding agency no later than nine months after the end of the recipient's fiscal year.

(d) Agency-established reporting requirements to meet the standards set forth in Paragraph (b) of this Rule shall be specified in each recipient's contract.

(e) Unless prohibited by law, the costs of audits made in accordance with the provisions of this Rule shall be allowable charges to State and Federal awards. The charges may be considered a direct cost or an allocated indirect cost, as determined in accordance with cost principles outlined in the Code of Federal Regulations, 2 CFR Part 200. The cost of any audit not conducted in accordance with this Subchapter shall not be charged to State awards.

(f) Notwithstanding the provisions of this Subchapter, a recipient may satisfy the reporting requirements of Subparagraph (b)(4) of this Rule by submitting a copy of the report required under federal law with respect to the same funds.