

ORDINANCE 71248

1 **BOARD BILL NUMBER 153 INTRODUCED BY: ALDERWOMAN CARA SPENCER**

2 An ordinance authorizing and directing the Acting Director of the City of St. Louis Department
3 of Health (DOH) to accept a grant from the Department of Health and Human Services, Centers
4 for Disease Control and Prevention (CDC) as a Cooperative Agreement (CFDA 93.978)(Award
5 No. 6 NH25PS005197-01-01), known as the Community-Based Approaches to Reducing
6 Sexually Transmitted Diseases (CARS) grant to fund a multi-jurisdictional/cross-
7 sector/community centered approach to address policies and practices that impact
8 disproportionately the STI/HIV burden on young Black Men, upon approval of the Board of
9 Estimate and Apportionment, and to expend funds by entering into contracts or otherwise for the
10 grant purposes and containing an emergency clause.

11 **WHEREAS**, the City of St. Louis Department of Health and St. Louis County Department of
12 Public Health are leveraging networks, anchor institutions, community-based organizations and
13 resident leaders to authentically engage affected communities for structural change and to build a
14 collaborative movement to support, protect, celebrate and heal our young men of color who are
15 at greatest risk of sexually transmitted infections (STIs) and stigma regarding their sexual health;
16 and

17 **WHEREAS**, according to 2018 CDC data, the City of St. Louis has the highest rates per
18 100,000 population of gonorrhea (1448.6) and chlamydia (738.8), and fourth highest syphilis rate
19 (42.4) in the U.S., while the entire Metropolitan Statistical area (MSA) had the twelfth, sixteenth
20 and twenty-fifth highest rates respectively; and

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1 **WHEREAS**, in 2018 in the City of St. Louis the rates per 100,000 population for Black men
2 ages 18-29 were 4035 for gonorrhea, 8200 for chlamydia, and 119 for syphilis;

3 **WHEREAS**, Black men in the City of St. Louis, 18-29 years old, have a chlamydia infection
4 rate 8 times that of White men 18-29 years old, a gonorrhea infection rate 13 times that of White
5 men 18-29 years old, and an early syphilis rate 4 times that of White men 18-29 years old;

6 **WHEREAS**, the interrelated factors of systemic racism, geographic segregation and persistent
7 poverty lend themselves to significant racial disparities in STIs/HIV in St. Louis, which is driver
8 for increasing rates in the region and in the State of Missouri; and

9 **WHEREAS**, from 2016-18 in an 11-county area, known as the Transitional Grant Area (TGA)
10 for coordination of Ryan White reporting and HIV services planning (composed on the Missouri
11 side of the City of St. Louis, and the Counties of St. Louis County, St. Charles, Jefferson,
12 Franklin, Warren and Lincoln; and on the Illinois side composed of the Counties of St. Clair,
13 Monroe, Madison, Clinton and Jersey) Black residents represented less than 20% of the
14 population, yet they accounted for 64% of all new HIV diagnoses at a rate per 100,000 of 121.1,
15 while the rate for White residents was 13 per 100,000; and

16 **WHEREAS**, the City of St. Louis has received a Notice of Award from the CDC for Three
17 Hundred Eight Thousand Five Hundred Thirty-Four Dollars (\$308,534) for year one, with 2
18 additional years of award, subject to funding, for a total award of up to Nine Hundred Thirty-
19 Three Thousand One Hundred Twenty-One Dollars (\$933,121.00); and

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1 **WHEREAS**, the grant funding will be utilized to implement a “high impact prevention”, data
2 and evidence supported, community driven approach to reduce STIs and HIV infections among
3 young Black men ages 18-29 in St. Louis City and St. Louis County; and

4 **WHEREAS**, the CARS grant funding will help to bridge multiple jurisdictions, convening
5 authorities and governing councils to focus specifically on policies and practices that influence
6 the sexual health of young Black men, ages 18-29, disproportionately burdened by STIs/HIV and
7 several complex, interconnected social determinants of health, including authentic engagement
8 and power sharing with the focus population, shifting the narrative to reduce stigma and promote
9 optimum sexual health, leveraging of existing Community Advisory Boards and partnerships,
10 promotion of cultural humility among service providers and policymakers, and implementation
11 of a sexual health messaging campaign focused on young Black men; and

12 **WHEREAS**, the City of St. Louis Department of Health intends to contract with Erise Williams
13 and Associates as a necessary and essential subrecipient named in the project proposal and
14 approved as a subrecipient by the CDC (see **Attachment B**) to improve their capacity to provide
15 health messaging strategies focused on Young Black Men, 18 to 29 years old, who have sex with
16 men (MSM); administer the Community Advisory Board (CAB) and coordinate community
17 engagement efforts; and subcontract for trainings and technical assistance to be provided to
18 HIV/STI service providers for the population of focus in the City of St. Louis and St. Louis
19 County, CAB members, partner agency staff and stakeholders, regarding cultural
20 competency/humility, racial justice, cross-cultural communication, mitigating bias, and youth
21 recruitment and engagement in the amount of Two Hundred Fifteen Thousand Nine Hundred
22 Two Dollars (\$215, 902).

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1 **BE IT ORDAINED BY THE CITY OF ST. LOUIS AS FOLLOWS:**

2 **SECTION ONE.** The Acting Director of the City of St. Louis Department of Health is
3 hereby authorized and directed, on behalf of the City of St. Louis, upon approval of the Board of
4 Estimate and Apportionment, to accept a grant from the Department of Health and Human
5 Services, Centers for Disease Control and Prevention (CDC) as a Cooperative Agreement
6 (CFDA 93.978)(Award No. 6 NH25PS005197-01-01), known as the Community-Based
7 Approaches to Reducing Sexually Transmitted Diseases (CARS) grant (**Attachment A**), to fund
8 a multi-jurisdictional/cross-sector/community centered approach to address policies and practices
9 that impact disproportionately the STI/HIV burden on young Black Men, and to expend funds by
10 entering into contracts or otherwise for the grant purposes.

11 **SECTION TWO.** The Acting Director of the City of St. Louis Department of Health is
12 hereby authorized and directed, upon approval of the Board of Estimate and Apportionment, to
13 expend funds, which are hereby appropriated for said purpose, by entering into a contract with
14 Erise and Associates (see **Attachment B**) to improve their capacity to provide health messaging
15 strategies focused on Young Black Men, 18 to 29 years old, who have sex with men (MSM);
16 administer the Community Advisory Board (CAB) and coordinate community engagement
17 efforts; subcontract with professional consultants who have academic appointments and
18 specialized expertise in racial justice, cross-cultural communication, mitigating bias and/or
19 cultural sensitivity/humility for trainings and technical assistance to be provided to HIV/STI
20 service providers for the population of focus in the City of St. Louis and St. Louis County, CAB
21 members, partner agency staff and stakeholders, regarding cultural competency/humility, racial
22 justice, cross-cultural communication, mitigating bias, and youth recruitment and engagement;

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1 and for such other purposes that are part of the CARS grant and set forth in the Scope of Work in
2 the amount of Two Hundred Fifteen Thousand Nine Hundred Two Dollars (\$215, 902).

3 **SECTION THREE.** Emergency Clause.

4 This being an ordinance for the preservation of the public peace, health and safety, it is
5 hereby declared to be an emergency measure within the meaning of Sections 19 & 20 of Article
6 IV of the Charter of the City of St. Louis, and therefore, this ordinance shall become effective
7 immediately upon its passage and approval by the Mayor.

Board Bill Number 153
ATTACHMENT A

1. DATE ISSUED MM/DD/YYYY 09/25/2020		1a. SUPERSEDES AWARD NOTICE dated 08/05/2020 except that any additions or restrictions previously imposed remain in effect unless specifically rescinded	
2. CFDA NO. 93.978 - Sexually Transmitted Diseases (STD) Provider Education Grants National Network of Sexually Transmitted Diseases Clinical Prevention Training Centers (NNPTC)			
3. ASSISTANCE TYPE Cooperative Agreement			
4. GRANT NO. 6 NH2SPS005197-01-01 Formerly		5. TYPE OF AWARD Other	
4a. FAIN NH2SPS005197		5a. ACTION TYPE Post Award Amendment	
6. PROJECT PERIOD MM/DD/YYYY From 09/30/2020		Through 09/29/2023	
7. BUDGET PERIOD MM/DD/YYYY From 09/30/2020		Through 09/29/2021	
8. TITLE OF PROJECT (OR PROGRAM) Community-Based Approaches to Reducing Sexually Transmitted Diseases (CARS)			

DEPARTMENT OF HEALTH AND HUMAN SERVICES
Centers for Disease Control and Prevention
CDC Office of Financial Resources

2939 Brandywine Road
Atlanta, GA 30341

NOTICE OF AWARD

AUTHORIZATION (Legislation/Regulations)
This Program is authorized under section 318 of the Public Health Service Act (42 U.S.C. Section 247c, as amended)

9a. GRANTEE NAME AND ADDRESS ST LOUIS, CITY OF 1520 MARKET ST 4TH FL SAINT LOUIS, MO 63103-1002	9b. GRANTEE PROJECT DIRECTOR Fredrick Echols M.D. 1520 Market Street St. Louis, MO 63103-2626 Phone: 314-612-5100
10a. GRANTEE AUTHORIZING OFFICIAL Emmanuel Kanee 1520 Market St Fl 4 Saint Louis, MO 63103-2612 Phone: 314-657-1415	10b. FEDERAL PROJECT OFFICER Mr. Norman Hayes 1600 Clifton Rd Atlanta, GA 30333 Phone: 404-639-8991

ALL AMOUNTS ARE SHOWN IN USD

11. APPROVED BUDGET (Excludes Direct Assistance)		12. AWARD COMPUTATION	
I Financial Assistance from the Federal Awarding Agency Only		a. Amount of Federal Financial Assistance (from item 11m)	
II Total project costs including grant funds and all other financial participation		b. Less Unobligated Balance From Prior Budget Periods	
		c. Less Cumulative Prior Award(s) This Budget Period	
		d. AMOUNT OF FINANCIAL ASSISTANCE THIS ACTION	
		13. Total Federal Funds Awarded to Date for Project Period	
a. Salaries and Wages	70,840.00	308,534.00	
b. Fringe Benefits	28,841.00	0.00	
c. Total Personnel Costs	99,681.00	308,534.00	
d. Equipment	0.00		
e. Supplies	1,560.00		
f. Travel	2,691.00		
g. Construction	0.00		
h. Other	6,098.00		
i. Contractual	182,902.00		
j. TOTAL DIRECT COSTS	292,932.00		
k. INDIRECT COSTS	15,602.00		
l. TOTAL APPROVED BUDGET	308,534.00		
m. Federal Share	308,534.00		
n. Non-Federal Share	0.00		

14. RECOMMENDED FUTURE SUPPORT (Subject to the availability of funds and satisfactory progress of the project):	
YEAR	TOTAL DIRECT COSTS
a. 2	d. 5
b. 3	e. 6
c. 4	f. 7
15. PROGRAM INCOME SHALL BE USED IN ACCORD WITH ONE OF THE FOLLOWING ALTERNATIVES:	
a. DEDUCTION	
b. ADDITIONAL COSTS	
c. MATCHING	
d. OTHER RESEARCH (Add / Deduct Option)	
e. OTHER (See ADMIN/REG)	
16. THIS AWARD IS BASED ON AN APPLICATION SUBMITTED TO, AND AS APPROVED BY, THE FEDERAL AWARING AGENCY ON THE ABOVE TITLED PROJECT AND IS SUBJECT TO THE TERMS AND CONDITIONS INCORPORATED EITHER DIRECTLY OR BY REFERENCE IN THE FOLLOWING:	
a. The grant program legislation	
b. The grant program regulations	
c. This award notice including terms and conditions, if any, noted below under ADMIN/REG.	
d. Federal administrative requirements, cost principles and audit requirements applicable to the grant.	
In the event there are conflicting or otherwise inconsistent policies applicable to the grant, the above order of precedence shall prevail. Acceptance of the grant terms and conditions is acknowledged by the grantee when funds are drawn or otherwise obtained from the grant payment system.	

REMARKS (Other Terms and Conditions Attached - Yes No)
Budget Revision- Approved

GRANTS MANAGEMENT OFFICIAL:
Arthur Lusby, Grants Management Officer, Team Lead
2939 Flowers Rd
Mailstop TV-2
Atlanta, GA 30341-5509
Phone: 770.488.2865

17.OBJ CLASS 41.51	18a. VENDOR CODE 1436003231A3	18b. EIN 436003231	19. DUNS 135747843	20. CONG. DIST. 01
FY-ACCOUNT NO.	DOCUMENT NO.	ADMINISTRATIVE CODE	AMT ACTION FIN ASST	APPROPRIATION
21. a. 0-936ZRPY	b. 20NH2SPS005197	c. PS	d. \$0.00	e. 75-20-0950
22. a.	b.	c.	d.	e.
23. a.	b.	c.	d.	e.

Funding Source: CDC CARS Grant
Funding Source Grant # 7113950
CFDA # NA
HD#

**BOARD BILL NUMBER 153
ATTACHMENT B**

CONTRACT BETWEEN

Erise Williams and Associates, Inc

AND

CITY OF ST. LOUIS, BY AND THROUGH ITS DEPARTMENT OF HEALTH

This contract is entered into by and between **Erise Williams and Associates** (hereinafter “Subrecipient”), **3737 N. Kingshighway, Suite #204-206 St. Louis, MO 63115** Federal I.D.#48-1294200, and the City of St. Louis, by and through its Department of Health (hereinafter “DOH”).

Terms of Contract

1. Any subrecipient that does not comply with the Terms and Conditions set forth herein is subject to the Contract Compliance Policy (Attachment A). The Contract Compliance Policy is followed methodically and uniformly by the Program Administrator, Contract Compliance Officer, and Program Administration staff.
2. **The DOH has determined that this contract is subrecipient in nature as defined in 2 CFR 200.330. (See Attachment F)**

Contract Period

3. The initial term of this contract shall be from **OCTOBER 1, 2020 – SEPTEMBER 30, 2021. The City shall have the right, at the City’s option, to renew this contract for three additional one-year terms.**

Invoicing and Payment

4. The DOH, shall issue the Subrecipient an award to improve their capacity to provide health messaging strategies focused on young Black men; 18-29, specifically young men who have sex with men (MSM). The amount will be paid in an amount not to exceed the contractual limit of **\$215,902.00.**
5. The Subrecipient shall receive the funding upfront and shall submit final documentation of expenses and funds issued within 15 days after the end of the contract period.
6. Monthly documentation shall be submitted within 10 business days after the end of the month services were rendered. Failure to submit documentation by the due date will result in corrective action (see Attachment A).
7. All invoices and supporting documentation submitted to the Subrecipient will be reviewed by the DOH.
8. This contract is funded through funds received from the CDC CARS funding and payment of this contract by the DOH is contingent upon the availability of said funds. **(Fund #, Center #).**

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Scope of Services

9. The Subrecipient will provide the services outlined and required by the DOH in the Scope of Work (Attachment B).

Recordkeeping and Audit Requirements

10. Financial records, supporting documentation, statistical records, and all other records pertinent to this contract's activities shall be retained by the Subrecipient for a period of at least seven (7) years from the date of final payment under this contract and for any longer period, if any, required by local, state or federal agencies. The Subrecipient shall maintain such records and accounts, including property, personnel and financial records, as are deemed necessary to assure a proper accounting of all contract funds. DOH reserves the right to audit the Subrecipient's accounts relating to the contract at any time. Any questioned costs that may arise as a result of any audit can only be resolved in one of the following ways:
 - a. Introduction of the appropriate documentation.
 - b. Resolution of the questioned cost by the Contracting Agency in a manner that is satisfactory to the DOH.
 - c. Repayment of questioned costs to the DOH.
11. The Subrecipient will maintain adequate records to establish that the funds provided herein are expended on eligible costs. Records and documentation will be made available to the DOH and/or authorized agents. In addition, a report shall be provided to the DOH at the end of the contract period outlining in detail the expenditure of funds for this program.

Indemnification

12. The Subrecipient is, and at all time hereunder, shall be and remain an independent subrecipient and nothing herein shall be interpreted to mean that the Subrecipient or any of its employees or agents is employees or agents of the City of St. Louis.
13. The Subrecipient shall indemnify and save harmless the City of St. Louis, its Board of Aldermen, the Department of Health Director, Health Commissioner, employees, representatives and agents from all suits or actions brought against the City of St. Louis, for or on account of any injuries or damages received or sustained by any party(ies) by or from the said Subrecipient, its officers, employees, representatives, subrecipients and agents, in the performance of the work herein specified, or in consequence of any negligence in guarding the same, or any defective materials or equipment used, or by or on account of any act or omission of the said Subrecipient.
14. No alderman, director, commissioner, board member, officer, employee or other agent of the City of St. Louis shall be personally liable under or in connection with this Agreement.

Termination

15. It is understood and agreed that in the event that the DOH determines that funds from General Revenue, State and/or Federal sources are not appropriated and/or continued at an aggregate level sufficient to

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allow for the purchase of the indicated services, or in the event of a change in Federal or State laws relevant to these services, the obligations of each party shall thereupon be terminated immediately upon receipt of written notice.

16. Either party may terminate this agreement at any time, with or without cause, upon thirty (30) days written notice to the other party. In the event of termination, the Subrecipient shall be paid only for work satisfactorily completed and funds not utilized will be re-allocated by DOH.

Discrimination Policy

17. The Subrecipient agrees that in performing any services resulting from this contract neither he/she nor any one under his/her control will permit discrimination against any business, employee or applicant for employment because of race, color, age, religion, sex, familial status, disability sexual orientation, national origin or ancestry.

Amendments

18. No amendment or modification shall be made to this agreement unless in writing and signed by the parties hereto.

Living Wage

19. The City of St. Louis presently has in force a Living Wage Ordinance (Ordinance #65597). **See Attachment E**. If the value of the contract is greater than \$50,000, the Subrecipient is subject to the Living Wage Ordinance, unless otherwise exempt per the Ordinance. If the value of the contract is less than \$50,000 when added to the amounts of any other service contract entered into between the City of St. Louis and the Subrecipient, the Subrecipient is not subject to the Living Wage Ordinance #65597 requirements.

Governing Law

20. It is understood and agreed by and between DOH and Subrecipient that the laws of the State of Missouri and the City of St. Louis Charter and Ordinances shall govern the rights, obligations, duties and liabilities of the parties to this Agreement and also govern the interpretation of this Agreement. In the event any term, clause, or provision, herein contained is found to invalid, inapplicable, or against public policy by a court of competent jurisdiction, the invalidity of any such term, clause, or provision, shall in no way affect any other valid term, clause, or provision of this Agreement or void this Agreement in its entirety.

Force Majeure

21. Neither party shall be liable in damages or other relief for any delay or default in performing hereunder if such delay or default is caused by conditions beyond its control, including but not limited to: acts of God, government restrictions (including the denial or cancellation of any necessary license), wars, insurrections, public health emergency and/or any other cause beyond the reasonable control of the party whose performance is affected (including mechanical, electronic, or communications failure). Additionally, the aforesaid conditions shall also include, but not be limited to, any governmental

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declaration of an emergency or public health emergency defined in part as, but not limited to: "any situation or an impending situation caused by the forces of nature, an accident, an intentional act or otherwise that constitutes a danger of major proportions to life or property including epidemics, illness, communicable disease outbreak or communicable and virulent disease, specific health related behavior, or other health related events clearly in excess of normal expectancy which would make compliance with the contract impossible or performance of the contract commercially impracticable, unreasonable, or fundamentally at variance with regulated health practices under the circumstances.

Each party hereunder will still have the duty to mitigate any and all losses which occur due to the non-performance as stated above and if a contracting party can otherwise continue to satisfy its contractual obligations in a commercially reasonable manner, the force majeure clause will not operate to absolve that party from its contractual responsibilities.

Unauthorized Alien Employees

22. As a condition for the award of this contract or grant, Subrecipient, shall, pursuant to the provisions of Sections 285.530 through 285.555 of the Revised Statutes of Missouri 2000, as amended, by **sworn affidavit** (attached hereto as Exhibit 1) **and provision of documentation**, affirm its enrollment and participation in a federal work authorization program with respect to the employees working in connection with this Agreement. Subrecipient shall also sign an affidavit (attached hereto as Exhibit 1) affirming that it does not knowingly employ any person who is an unauthorized alien in connection with this Agreement pursuant to the above-stated Statutes.

Certification under Revised Statutes of Missouri Section 34.600

23. If this contract or grant exceeds \$100,000 in value, and Contractor has 10 or more employees, then as a condition for the award of this contract or grant, Contractor, shall, pursuant to the provisions of Section 34.600 of the Revised Statutes of Missouri 2000, as amended, by sworn affidavit (attached hereto as Exhibit 2) affirm and certify that Contractor is not currently engaged in and shall not, for the duration of the contract, engage in a boycott of goods or services from the State of Israel; companies doing business in or with Israel or authorized by, licensed by, or organized under the laws of the state of Israel; or persons or entities doing business in the state of Israel.

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EXHIBIT 1

STATE OF _____)
)SS.
COUNTY OF _____)

AFFIDAVIT

Before me, the under signed Notary Public, personally appeared _____ (Name) who, by me being duly sworn, deposed as follows:

My name is _____ (Name), I am of sound mind, capable of making this Affidavit, and personally acquainted with the facts herein state:

I am the _____ (Position/Title) of _____. (Subrecipient)

I have the legal authority to make the following assertions:

1. _____ (Subrecipient) is currently enrolled in and actively participates in a federal work authorization program with respect to the employees working in connection with this Agreement, as required pursuant to Sections 285.525 through 285.555 of the Revised Statutes of Missouri 2000, as amended.
2. Pursuant to Sections 285.525 through 285.555 of the Revised Statutes of Missouri 2000, as amended, _____ (Subrecipient) does not knowingly employ any person who is an unauthorized alien in connection with is Agreement.

Affiant

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal
this ____ day of _____, 20__.

Notary Public

My Commission Expires:

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EXHIBIT 2

State of _____)
_____)SS.
County of _____)

AFFIDAVIT OF COMPLIANCE WITH ANTI-DISCRIMINATION AGAINST ISRAEL ACT

(Contracts in excess of \$100,000.00/Companies with 10 employees or more)

Before me, the undersigned Notary Public, personally appeared _____
(Name), who, by me being duly sworn, deposed as follows:

My name is _____ (Name). I am of sound mind, capable of making this
Affidavit, and personally acquainted with the facts herein stated:

I am the _____ (Position/Title) of _____
(Company/Entity).

I have the legal authority to make the following assertion and certification and do hereby certify
that:

Pursuant to RSMO. Section 34.600, _____ (Company/Entity) is not
currently engaged in and shall not, for the duration of the contract, engage in a boycott of
goods or services from the State of Israel; companies doing business in or with Israel or
authorized by, licensed by, or organized under the laws of the state of Israel; or persons
or entities doing business in the state of Israel.

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Affiant

DRAFT

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Attachments

24. It is understood and agreed that the Attachments hereto attached are all essential documents of the contract and are part thereof and that the Subrecipient agrees to comply with all procedures therein.

Attachment A: Contract Compliance Policy

Attachment B: Scope of Work

Attachment C: Business Associate Provisions

Attachment D: M/W/DBE Participation

Attachment E: Living Wage Compliance Provisions (if applicable)

Attachment F. 2 CFR 200.330

DRAFT

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The Subrecipient and City hereby agree to all terms and conditions as set forth in this Agreement and in witness thereof, the parties hereto execute this Agreement.

Fredrick L. Echols, M.D.
Acting Director of Health
City of St. Louis

Erise Williams
President/CEO
Erise Williams & Associates

Date

Date

APPROVED AS TO FORM:

City Counselor

Date

Comptroller

Date

Register

Date

ATTACHMENT A

CONTRACT COMPLIANCE POLICY

1. A Subrecipient problem is identified by the Contract Compliance Officer or designated Grants Administration staff at the DOH.
2. Immediate notification of the problem is made in the form of a verbal conversation with the Subrecipient agency's identified point of contact. At this time, a corrective action is negotiated along with a resolution date. The communication is followed by written documentation in the form of a letter and/or email summarizing the identified problem, corrective action, and resolution date.
3. If the problem is not resolved by the resolution date, a second verbal conversation and written notification of the problem is made to the Subrecipient agency's point of contact. Where appropriate, the point of contact's supervisor, program director, and/or CEO/Executive Director will also be included and/or copied. This contact will include a request for a written comprehensive corrective action plan from the Subrecipient within 30 days of the written confirmation. In some cases, such as site visits, where immediate action is needed, an immediate corrective action plan will be completed. The corrective action plan shall contain a clear statement of the identified problem, plan of implementation to address the problem, and proposed timelines for completion. The Contract Compliance Officer or designated Grants Administration staff will provide technical assistance, if requested.
4. If the problem continues unresolved after 30 days, a meeting will be held with the Grants Administrator, Bureau Chief and/or Commissioner of Health, and Subrecipient agency representatives to discuss the situation, plans for immediate resolution that will result in compliance within 14 days, and the possibility of contractual penalties associated with non-compliance after 14 days.
5. If there is no resolution after meeting with the Bureau Chief and/or Commissioner of Health, a letter is forwarded from the Grants Administrator giving notice of the intent to either decrease the award amount by a minimum of 1% of the contract amount (to be deducted from the administrative line item) or of the intent to withdraw the funding completely.
6. The Subrecipient's award will be decreased by 1% of the contract amount deducted from the administrative line item for each unresolved issue.
7. Funding could be withdrawn from a Subrecipient if serious issues are not satisfactorily resolved in a timely manner.
8. Unresolved issues will be considered within the context of future funding allocations.

NOTE: Each Subrecipient issue/problem will be handled on a case-by-case basis, with the input of the Grants Administrator.

ATTACHMENT B

SCOPE OF WORK

The Subrecipient Shall within year 1:

1. Adhere to all City and federal rules and regulations that govern the CARS funding. Failure to adhere to these regulations shall result in the Subrecipient repaying to the Recipient the full amount of the contract amount.
2. Comply with all documentation and reporting requirements.
3. Lead community engagement for the CARS Project including recruitment and management of a Community Advisory Board (CAB), outreach to community-based stakeholders and refinement of health messaging strategies focused on young black men, MSM and YMSM.
4. Hire a full time Project Coordinator to drive community outreach, manage the agenda, schedule and processes of the CAB.
5. In the first year of the project, 10 individuals will be recruited to serve on the braided CAB and 2 additional members will be added in the second year.
6. The CAB will be expected to identify priorities and leverage resources to address knowledge gaps and service needs related to STI prevention and social determinants of health.
7. Develop at least 2 CAB designed interventions relating to STI/HIV prevention.
8. Develop at least 2 CAB defined SDOH public priorities
9. Increase number of MOUs executed with partners and refine existing MOUs
10. Increase by at least 10% the number of access points for STI/HIV information and services by adding one virtual/online platform and three new community-based service access points.
11. Develop cohesively branded sexual health messaging campaign focused on Black men, MSM and YMSM and deliver cultural humility training to at least 30 staff/providers/stakeholders
12. Successfully develop infrastructure and coordinating protocols for CARS project management, evaluation, reporting and dissemination.
13. If monies are not spent in compliance with CDC rules and regulations, the agency shall reimburse the City of St. Louis the full amount of the award.
14. Within 10 business days of submitting a signed contract, create a categorical budget and timeline that ensures expenditure of all funds by October 15, 2021. This plan must be reviewed and approved by the City of St. Louis Department of Health.
15. Provide a final report to the City of St. Louis Department of Health after all monies have been spent. The final report must include invoices (electronic copies shall be sufficient to meet this requirement) an expenditure report that includes details on how the monies were spent, and a narrative describing the impact.
16. Monthly, meet with City of St. Louis Department of Health Director (Principal Investigator) and Health Services Manager I (Project Director) to discuss any challenges with project implementation.

ATTACHMENT C

BUSINESS ASSOCIATE PROVISIONS

The Subrecipient agrees to comply with all applicable provisions of the Federal Standards for Privacy of Individually Identifiable Health Information (45 CFR Part 160 and Part 164, Subparts A and E). The Subrecipient acknowledges that pursuant to these regulations, it is a “Business Associate” of DOH, and as such, agrees to ensure the integrity and confidentiality of “Protected Health Information” (PHI) held, transmitted, disclosed, received or created on behalf of DOH.

1. In compliance with the Health Insurance Portability and Accountability Act of 1996 and regulations promulgated there under (collectively “HIPAA”), the Subrecipient constitutes a “Business Associate” as such term is defined in the Code of Federal Regulations (CFR) at 45 CFR § 160.103. Therefore, the term, “Subrecipient” as used in this section shall also mean “Business Associate.”
2. The Subrecipient shall agree and understand that for purposes of the Business Associate Provisions contained herein, terms used, but not otherwise defined, shall have the same meaning as those terms defined in 45 CFR § 160.103 and § 164.501, including, but not limited to the following:
 - a. “Individual” shall have the same meaning as the term “individual” in 45 CFR § 164.501 and shall include a person who qualifies as a personal representative in accordance with 45 CFR § 164.502(g).
 - b. “Privacy Rule” shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Part 160 and Part 164, Subparts A and E.
 - c. “Protected Health Information” shall have the same meaning as the term “protected health information” in 45 CFR § 164.501, limited to the information created or received by Business Associate from or on behalf of DOH.
 - d. “Required By Law” shall have the same meaning as the term “required by law” in 45 CFR § 164.501.
3. The Subrecipient shall agree and understand that this agreement applies to any oral or recorded information relating to past, present and future physical or mental health of an individual, the provision of health care to the individual or the payment for health care or that also contains information which makes it possible to identify the individual.
4. The Subrecipient agrees to maintain the security and confidentiality of any Protected Health Information (PHI) it receives from the DOH or creates or receives on behalf of the DOH as required by the aforementioned Attachment A — Scope of Work and applicable law without limiting the foregoing:
 - a. Use and Disclosure of PHI: Subrecipient agrees that it will not use or further disclose PHI other than as expressly permitted by this Agreement or as required by law. However, Subrecipient may use and disclose PHI for the following purposes:

- 1) To manage its internal business processes relating to its function under this Agreement;
or
 - 2) When appropriate and agreed to by the parties, to provide data aggregation services, as defined by HIPAA, to the DOH.
- b. Safeguards: Subrecipient warrants that it will implement appropriate safeguards to prevent the use or disclosure of PHI for purposes other than as set forth in this Agreement. Subrecipient will provide the DOH with such information concerning such safeguards as the DOH may from time to time request, and will, upon reasonable request, give the DOH access for inspection and copying to Subrecipient's facilities used for the maintenance or processing of PHI and to its books, records, practices, Policies and Procedures concerning the use and disclosure of PHI, for the purpose of determining Subrecipient's compliance with this Agreement.
- c. Notification: Subrecipient agrees to notify the DOH within five (5) business days upon discovery of any unauthorized use or disclosure of PHI.
- d. Accounting of Uses or Disclosures: Subrecipient shall maintain a record of all disclosures of PHI made for reasons other than as described in this Agreement and provide the following information to the DOH upon request:
- 1) The date of the disclosure;
 - 2) The name and, if known, the address of the recipient of the PHI;
 - 3) Copy of the request for disclosure, accompanied by any necessary consents or authorizations;
 - 4) A brief description of the PHI disclosed;
 - 5) A statement that would reasonably inform the DOH of the purpose of the disclosure.
- e. Disclosures to Workforce and/or Third Parties: Subrecipient agrees to require its workforce and subsubrecipients/third parties to adhere to the restrictions and conditions regarding PHI contained herein, without limiting the foregoing:
- 1) Disclosures to workforce: Subrecipient agrees not to disclose PHI to any member of its workforce unless Subrecipient has advised such member of the workforce of Subrecipient's obligation under this section and the consequences for violation of these obligations. Subrecipient agrees to take disciplinary action against any member of its workforce that uses or discloses PHI in violation of this section.
 - 2) Disclosures outside of the workforce: Subrecipient will not disclose PHI to any other person or entity without the written approval of the DOH. Disclosures will be made only to those third parties that agree in writing to be bound by the requirements of this section for the express benefit of Subrecipient and the DOH.

- 3) Any use or disclosures to Subrecipient's workforce or third parties must be limited to the minimum necessary to achieve the purpose for the use or disclosure.
- f. Access to Records by the Subject of the Records: If Subrecipient is maintaining either: (1) the medical records and billing records about individuals by or for the DOH; (2) records of the enrollment, payment, claims adjudication and case or medical management records systems maintained for a health plan; or (3) records used, in whole or in part, by or for the DOH to make decisions about individuals, Subrecipient agrees to make the information available to the individual whose PHI is maintained by Subrecipient or the individual's legal representative for review, with the exception of: records relating to psychotherapy notes; information, compiled in reasonable anticipation of, or for use in, a civil, criminal or administrative action or proceeding and; PHI that would be inaccessible to an individual under the Clinical Laboratory Improvements Amendments of 1988, 42 USC 263(a). If the individual requests amendment of PHI, Subrecipient will immediately notify the DOH of such request.
- g. Government Access to Records: Subrecipient agrees to make available its policies, books and records related to the use and disclosure of PHI to the Secretary of the U.S. Department of Health and Human Services or his or her designee for the purpose of determining compliance with HIPAA requirements.
- h. Term: The Term of this Agreement shall be effective as of date signed, and shall terminate when all of the Protected Health Information provided by the DOH to Subrecipient, or created or received by Subrecipient on behalf of the DOH, is destroyed or returned to the DOH, or, if it is infeasible to return or destroy Protected Health Information, protections are extended to such information.
- i. Termination: Without limiting the rights of the parties pursuant to Section (a) of this Agreement, if Subrecipient fails to adhere to its obligations under this Section(a), the DOH may, at its option:
- 1) Exercise its rights of access and inspection as set forth in Section (b), above;
 - 2) Require Subrecipient to submit to a plan of monitoring and reporting, as the DOH may require for compliance with this Agreement; and such plan shall be incorporated as a part of this Agreement; or
 - 3) Terminate this agreement with or without an opportunity to cure any breach or failure to adhere to the obligations contained within this section.
- j. Disposition of Records upon Termination: Subrecipient agrees to return or otherwise destroy all PHI received from or created or received on behalf of the DOH in accordance with established medical records doctrine or upon termination of this Agreement. Subrecipient shall continue to extend the protections of this agreement to all such PHI until the return or destruction of the PHI is completed.
- k. Assistance with Consents and Authorizations: The DOH agrees to assist Subrecipient in

obtaining any necessary consents or authorizations necessary for disclosure.

1. “Chain of Trust” and “Trading Partner” Provisions: In the event that Subrecipient discloses, uses or otherwise exchanges data electronically, in addition to the other provisions of this Agreement, Subrecipient shall abide by the terms and conditions of this Section.
 - 1) Information Safeguards: Subrecipient will develop, implement, maintain and use, at its own expense, such appropriate administrative, technical and physical safeguards as may be required from time to time to maintain compliance with HIPAA and to preserve the integrity and confidentiality of and to prevent non-permitted or violating use or disclosure of PHI, which is transmitted electronically.
 - 2) Standard Transactions: If Subrecipient conducts “Standard Transactions” as that term is defined within 45 CFR Part 162, for or on behalf of the DOH, Subrecipient will comply and will require each subrecipient or agent involved with such Standard Transactions, to comply, with each applicable requirement of 45 CFR Part 162. Subrecipient will not enter into, or permit its subrecipients or agents to enter into, any trading partner agreement in connection with the Standard Transactions conducted for or on behalf of the DOH that: (i) changes the definition, data condition, or use of a data element or segment in a Standard Transaction; (ii) adds any data elements or segments to the maximum defined data set; (iii) uses any code or data element that is marked “not used” in the Standard Transaction’s implementation specification or is not in the Standard Transaction’s implementation specification; or (iv) changes the meaning or intent of the Standard Transaction’s implementation specification.
- m. Amendments: Upon the enactment of any law or regulation affecting the use or disclosure of PHI, or the publication of any decision of a court of the United States or of this state relating to any such law, or the publication of an interpretive policy or opinion of any governmental agency charged with the enforcement of any such law or regulation, the DOH may, by written notice to Subrecipient, amend this Agreement in such a manner as the DOH deems necessary to comply with such law or regulation, If Subrecipient disagrees with such amendment, it will notify the DOH in writing within thirty (30) days of the DOH notice. If the parties are unable to agree on an amendment within thirty (30) days thereafter, either of them may terminate this Agreement by written notice to the other.
- n. Breach of Contract: In the event the Subrecipient is in breach of contract with regard to the business associate provisions included herein, the Subrecipient shall agree and understand that in addition to the requirements of the contract related to expiration/termination/cancellation of contract, if the DOH determines that termination or cancellation of the contract is not feasible, the DOH may elect not to terminate or cancel the contract, but the DOH shall report the contractual breach to the Secretary of the U.S. Department of Health and Human Services.

ATTACHMENT D

MINORITY BUSINESS ENTERPRISE AND WOMEN BUSINESS ENTERPRISE (MBE/WBE) PARTICIPATION

It is the policy of the City of St. Louis to ensure maximum utilization of minority and women's business enterprises in contracting and the provision of goods and services to the City, its Departments, agencies and authorized representative and to all entities receiving City funds or city-administered government funds while at the same time maintaining the quality of goods and services provided to the City and its sub-recipients through the competitive bidding process. The provision of this Policy shall apply to all contracts awarded by the City, its Departments and agencies and to all recipients of City funds or City-administered government funds and shall be liberally construed for the accomplishments of its policies and purposes.

1. **Definitions:** As used in this requirement, "Minority Business Enterprise" or "MBE" and "Women Business Enterprise" or "WBE" are defined as follows:
 - a. "Minority Business Enterprise" or "MBE" means a small business concern as defined in Small Business Act, 15 U.S. C., as amended that is 51 percent owned by a minority or, in the case of a corporation, at least 51 percent of the stock of which is owned by one or more individuals who are minorities; and whose management and daily business operation are conducted by one or more individuals who are Asian American, African American, Hispanic American or Native American and located in the St. Louis Metropolitan Area.
 - b. "Women Business Enterprise" or "WBE" means a small business concern as defined in the Small Business Act, 15 U.S.C., as amended that is 51 percent of the stock of which is owned by one or more women; and whose management and daily business operations are controlled by one or more individuals that are women.
2. **Goal:** A goal of 25% MBE and 5% WBE utilization has been established in connection with this contract. This goal is based on the original contract amount and remains in effect throughout the term of this Agreement. If an award of this contract is made and the MBE/WBE participation is less than the contract goal, the Subrecipient shall continue good faith efforts throughout the term of this contract to increase MBE/WBE participation and to meet the contract goals.
3. **Obligation:** The Subrecipient agrees to take all reasonable steps necessary to ensure that MBEs/WBEs have a maximum opportunity to participate in contracts and subcontracts financed by or through the DOH provided under this Agreement. The Subrecipient shall not discriminate on the basis of race, color, national origin, or sex in the award or in the performance of contracts financed by or through the DOH.
4. **Eligibility:** Subrecipient should contact the City of St. Louis DBE Program Office to obtain a list of eligible MBEs/WBEs and to determine the eligibility of the MBE/WBE firms it intends to utilize in this contract.
5. **Counting MBE/WBE Participation Toward Goals:** MBE/WBE participation toward the attainment of the goal will be credited on the basis of the total subcontract prices agreed to

between the subrecipients and subsubrecipients for the contract items being sublet as reflected on the MBE/WBE Utilization Plan.

6. Post Award Compliance: If the contract is awarded on less than full MBE/WBE goal participation, such award will not relieve the Subrecipient of the responsibility to continue good faith efforts to maximize participation of MBE's/WBE's during the term of the contract.
7. Substitution of MBE/WBE Firms After Award: The Subrecipient shall conform to the scheduled amount of MBE/WBE participation. When a listed MBE/WBE is unwilling or unable to perform the items of work or supply the goods or services specified in the MBE/WBE Utilization Plan, the Subrecipient shall immediately notify the City of St. Louis DBE office prior to replacement of the firm.
8. Good Faith Efforts: When the MBE/WBE goal cannot be met, the Subrecipient shall document and submit justification utilizing the form titled "Subrecipient's Good Faith Efforts Report" and provide a statement as to why the goal could not be met.
9. Award Procedure and Documentation: The Subrecipient is required to submit with its bid the following information to demonstrate the Subrecipient's intended participation by MBEs/WBEs or to demonstrate that good faith efforts have been made to attain the MBE/WBE goal. The information to be furnished shall consist of:
 - a. The names and addresses of the MBE/WBE firms to be used on the contract.
 - b. A list of bid items of work to be performed or goods and services provided by the MBE/WBE or "The Subrecipient's Good Faith Efforts" Report and a statement as to why the goal could not be met.
10. Record Keeping Requirements: The Subrecipient shall keep such records (copies of subcontracts, paid invoices, documentation of correspondence) as are necessary for the DOH to determine compliance with the MBE/WBE contract obligations. The DOH reserves the right to investigate, monitor and/or review actions, statements and documents submitted by any subrecipient, subsubrecipient, or MBE/WBE.
11. Reporting Requirements: The Subrecipient shall submit quarterly reports on MBE/WBE involvement to the DOH. Actual payments to MBEs/WBEs will be verified. These reports will be required until all DBE subcontracting activity is complete or the MBE/WBE goal has been achieved.
12. Applicability of Provisions to MBE/WBE Subrecipients: These provisions are applicable to all subrecipients including MBE/WBE subrecipients. A bid submitted by a MBE/WBE subrecipient shall be presumed to have met the prescribed goal. If the MBE/WBE subrecipient intends to sublet any portion of the contract, the MBE/WBE subrecipient shall comply with provisions regarding subrecipient and subsubrecipient relationships.

ATTACHMENT E

ST. LOUIS LIVING WAGE ORDINANCE

LIVING WAGE COMPLIANCE PROVISIONS: This contract [agreement] is subject to the St. Louis Living Wage Ordinance 65597 and the Regulations associated therewith, copies of which are attached hereto and incorporated herein by this reference. The Ordinance and Regulations require the following compliance measures, and Subrecipient hereby agrees to comply with these measures:

1. **Minimum Compensation:** Subrecipient hereby agrees to pay an initial hourly wage to each employee performing services related to this contract [agreement] in an amount no less than the amount stated on the attached Living Wage Bulletin. The initial rate shall be adjusted each year no later than April 1, and Subrecipient hereby agrees to adjust the initial hourly rate to the adjusted rate specified in the Bulletin at the time the Bulletin is issued.
2. **Notification:** Subrecipient shall provide the Living Wage Bulletin to all employees, together with a “Notice of Coverage”, in English, Spanish, and other languages spoken by a significant number of the Subrecipient’s employees within thirty (30) days of contract execution for existing employees and within thirty (30) days of employment for new employees.
3. **Posting:** Subrecipient shall post the Living Wage Bulletin, together with a “Notice of Coverage”, in English, Spanish, and other languages spoken by a significant number of the Subrecipient’s employees, in a prominent place in a communal area of each worksite covered by the Contract.
4. **Subsubrecipients—Service Contracts:** Subrecipient hereby agrees to require Subsubrecipients, as defined in the Regulations, to comply with the requirements of the Living Wage Regulations, and hereby agrees to be responsible for the compliance of such Subsubrecipients. Subrecipient shall include these Living Wage Compliance Provisions in any contract with such Subsubrecipients.]
5. **Term of Compliance—Service Contracts:** Subrecipient hereby agrees to comply with these Living Wage Compliance Provisions and with the Regulations for as long as work related to this contract is being performed by Subrecipient’s employees, and to submit the reports required by the Regulations for each calendar year or portion thereof during which such work is performed.]
6. **Reporting:** Subrecipient shall provide the Annual Reports and attachments required by the Ordinance and Regulations.
7. **Penalties:** Subrecipient acknowledges and agrees that failure to comply with any provision of the Ordinance and/or Regulations and/or providing false information may result in the imposition of penalties specified in the Ordinance and/or Regulations, which penalties, as provided in the Ordinance and Regulations, may include, without limitation, per order of the City Compliance Official, the following:
 - Suspension and/or termination of the contract, subcontract, lease, concession agreement or financial assistance agreement by the City.
 - Forfeiture and repayment of any or all of the financial assistance awarded by the City of St. Louis.
 - Barring the Subrecipient or CFAR from eligibility for future City contracts and/or financial assistance until all ordered relief has been made or paid in full.
 - Liquidated damages payable to the City of St. Louis in the amount of \$500 for each week, or part thereof, that an employee has not been provided wages and benefits in

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accordance with the Living Wage Ordinance. Each weekly violation shall constitute a separate violation of the Ordinance and must be demonstrated separately.

ST. LOUIS LIVING WAGE ORDINANCE
LIVING WAGE ADJUSTMENT BULLETIN

NOTICE OF ST. LOUIS LIVING WAGE RATES
EFFECTIVE APRIL 1, 2020

In accordance with Ordinance No. 65597, the St. Louis Living Wage Ordinance (“Ordinance”) and the Regulations associated therewith, the City Compliance Official for the City of St. Louis has determined that the following living wage rates are now in effect for employees of covered contracts:

- 1) Where health benefits as defined in the Ordinance are provided to the employee, the living wage rate is **\$13.57** per hour (130% of the federal poverty level income guideline for a family of three); and
- 2) Where health benefits as defined in the Ordinance are **not** provided to the employee, the living wage rate is **\$18.05** per hour (130% of the federal poverty level income guideline for a family of three, plus fringe benefit rates as defined in the Ordinance).
- 3) Wages required under Chapter 6.20 of the Revised Code of the City of St. Louis: **\$4.48** per hour.

These rates are based upon federal poverty level income guidelines as defined in the Ordinance and these rates are effective as of **April 1, 2020**. These rates will be further adjusted periodically when the federal poverty level income guideline is adjusted by the U.S. Department of Health and Human Services or pursuant to Chapter 6.20 of the Revised Code of the City of St. Louis.

The Ordinance applies to employers who are covered by the Ordinance as defined in the Ordinance, where the contract or grant is entered into or renewed after the effective date of the Ordinance, which is November 3, 2002. A copy of the Ordinance may be viewed online at <http://www.flystl.com/bdd> or obtained from:

City Compliance Official
c/o St. Louis Airport Authority
St. Louis, MO 63145
(314) 426-8111

Funding Source: CDC CARS Grant
Funding Source Grant # 7113950
CFDA # NA
HD#



NOTICE TO EMPLOYEES CITY OF ST. LOUIS LIVING WAGE ORDINANCE

This employer is a subrecipient with the City of St. Louis. This contract is subject to the Living Wage Ordinance (LWO) Number 65597 established by the Board of Alderman. If you are an employee performing any service under this contract, you must be paid a "Living Wage."

THESE ARE YOUR RIGHTS...

Living wage

If you are an employee performing services under a City contract, you must be paid not less than the living wage rate of \$12.99 per hour plus at least \$4.41 per hour for health benefits or \$17.40 per hour without health benefits.

Retaliation

You cannot be transferred, demoted or terminated for reporting violations of the Living Wage Program. All acts of retaliation can be reported to the Office of Certification and Compliance by calling the Living Wage Hotline.

You may Report Living Wage Violations to:

City Department Administering this Contract/DLWL

City Department Phone Number

OR

**OFFICE OF DBE PROGRAMS-CERTIFICATION AND COMPLIANCE
LIVING WAGE HOTLINE (314) 890-1809**

ATTACHMENT F

2 CFR 200.330

Code of Federal Regulations

Title 2 - Grants and Agreements

Volume: 1

Date: 2014-01-01

Original Date: 2014-01-01

Title: Section Â§ 200.330 - Subrecipient and subrecipient determinations.

Context: Title 2 - Grants and Agreements. Subtitle A - Office of Management and Budget Guidance for Grants and Agreements. CHAPTER II - OFFICE OF MANAGEMENT AND BUDGET GUIDANCE. - Reserved. PART 200 - UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS. Subpart D - Post Federal Award Requirements. - Subrecipient Monitoring and Management.

§ 200.330 Subrecipient and subrecipient determinations.

The non-Federal entity may concurrently receive Federal awards as a recipient, a subrecipient, and a subrecipient, depending on the substance of its agreements with Federal awarding agencies and pass-through entities. Therefore, a pass-through entity must make case-by-case determinations whether each agreement it makes for the disbursement of Federal program funds casts the party receiving the funds in the role of a subrecipient or a subrecipient. The Federal awarding agency may supply and require recipients to comply with additional guidance to support these determinations provided such guidance does not conflict with this section.

(a) Subrecipients. A subaward is for the purpose of carrying out a portion of a Federal award and creates a Federal assistance relationship with the subrecipient. See § 200.92 Subaward. Characteristics which support the classification of the non-Federal entity as a subrecipient include when the non-Federal entity:

- (1) Determines who is eligible to receive what Federal assistance;
- (2) Has its performance measured in relation to whether objectives of a Federal program were met;
- (3) Has responsibility for programmatic decision making;
- (4) Is responsible for adherence to applicable Federal program requirements specified in the Federal award; and
- (5) In accordance with its agreement, uses the Federal funds to carry out a program for a public purpose specified in authorizing statute, as opposed to providing goods or services for the benefit of the pass-through entity.

(b) Subrecipients. A contract is for the purpose of obtaining goods and services for the non-Federal entity's own use and creates a procurement relationship with the subrecipient. See § 200.22 Contract. Characteristics indicative of a procurement relationship between the non-Federal entity and a subrecipient are when the non-Federal entity receiving the Federal funds:

- (1) Provides the goods and services within normal business operations;
- (2) Provides similar goods or services to many different purchasers;
- (3) Normally operates in a competitive environment;
- (4) Provides goods or services that are ancillary to the operation of the Federal program; and
- (5) Is not subject to compliance requirements of the Federal program as a result of the agreement, though similar requirements may apply for other reasons.

(c) Use of judgment in making determination. In determining whether an agreement between a pass-through entity and another non-Federal entity casts the latter as a subrecipient or a subrecipient, the substance of the relationship is more important than the form of the agreement. All of the characteristics

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listed above may not be present in all cases, and the pass-through entity must use judgment in classifying each agreement as a subaward or a procurement contract.

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