

W.G.B-1

Memorandum Date: April 28, 2006

Order Date: May 17, 2006

TO: Board of County Commissioners

DEPARTMENT: District Attorney's Office

PRESENTED BY: Doug Harclerod, District Attorney, Department Director

AGENDA ITEM TITLE: ***IN THE MATTER OF DELEGATING AUTHORITY TO THE COUNTY ADMINISTRATOR TO EXECUTE A FOUR-YEAR INTERGOVERNMENTAL AGREEMENT WITH THE OREGON DEPARTMENT OF JUSTICE***

I. MOTION

TO DELEGATE AUTHORITY TO THE COUNTY ADMINISTRATOR TO EXECUTE A FOUR-YEAR INTERGOVERNMENTAL AGREEMENT WITH THE OREGON DEPARTMENT OF JUSTICE, WITH \$4,200,000 IN PROJECTED REVENUES, FOR THE DELIVERY OF CHILD SUPPORT ENFORCEMENT SERVICES.

II. ISSUE OR PROBLEM

ORS 25.080(7) requires local governing bodies and district attorneys to enter into child support cooperative agreements with the Oregon Department of Justice. The District Attorney's Office recently received an Intergovernmental Cooperative Agreement (IGA) from the Oregon Department of Justice, Child Support Program, for continuation of child support enforcement services. Due to the fact that this IGA is more than three years, and is valued at \$4,200,000 it exceeds the amount for which the County Administrator is authorized to sign and the Board must delegate authority to the County Administrator to sign the IGA.

III. DISCUSSION

A. Background

The Lane County District Attorney's Office has received funding for many years from the State of Oregon to provide Child Support Enforcement Services through our Family Law Division. The Family Law Division

provides Child Support Enforcement services as required by ORS 25.080. The current Intergovernmental Agreement is effective through June 30, 2006. This IGA covers the time period from 7/1/2006 through 6/30/2010, and will reimburse a percentage of actual costs incurred while delivering Child Support Enforcement Services. The percentage is the federally-authorized rate of federal financial participation set by the United States Department of Health and Human Services in accordance with 42 USC 655. While this percentage is subject to change, as of 4/27/2006 it was 66%. Over the life of this four-year IGA, this reimbursement amount is estimated to be valued at \$4,200,000.

This funding supports substantially all of the District Attorney's Family Law Division, which consists of 4.0 FTE Assistant District Attorneys, and 8.0 FTE support staff. This funding will be appropriated for FY06-07 through the budget process.

B. Analysis

1. What is the match requirement, if any, and how is that to be covered for the duration of the grant?

There is no match requirement. This IGA reimburses us for 66% of the cost of providing Child Support Enforcement Services. The IGA also makes us eligible for additional "Incentive Funding". The cost of providing Child Support Enforcement Services that is not reimbursed by this IGA we have proposed to be covered by a portion of our Department's General Fund dollars in our FY06-07 Proposed Budget.

2. Will the grant require expenditures for Material and Services or capital not fully paid for by the grant?

Yes, this IGA reimburses 66% percent of our actual costs.

3. Will the grant funds be fully expended before county funds need to be spent?

Yes

4. How will the administrative work of the grant be covered if the grant funds don't cover it?

N/A

5. Have grant stakeholders been informed of the grant sunseting policy so there is no misunderstanding when the funding ends? Describe plan for service if funding does not continue.

Yes. This is a mandated service we are required to provide per ORS 25.080. If funding does not continue beyond the life of this IGA we will include this mandated service in our general fund proposed budget.

6. What accounting, auditing and evaluation obligations are imposed by the grant conditions?

Quarterly Requests for Reimbursement, and an annual Subrecipient Budget Information Report. The accounting and auditing obligations have not changed from the previous years this IGA has been in effect, and are the standard accounting and auditing requirements of Federal Grants.

7. How will the department cover the accounting, auditing and evaluation obligations? How are the costs for these obligations covered, regardless whether they are in the department submitting the grant or a support service department? Does the department acknowledge that the county will need to cover these costs and that it is an appropriate cost incurred by support service departments?

The department will cover the obligations as it always has by assigning the a portion of the Accounting Analyst's time to fulfill the accounting and reporting obligations. The auditing obligations are fulfilled by the County annually as part of its annual Audit.

8. Are there any restrictions against applying the county full cost indirect charge?

Yes, as this is a federal pass-through grant the A-87 Indirect Cost Plan is the one that is allowed to be applied to this grant. The Full Cost Plan is not allowed to be applied as it contains costs that are Unallowable as defined by circular A-87.

9. Are there unique or unusual conditions that trigger additional county work effort, or liability, i.e., maintenance of effort requirements or supplanting prohibitions or indemnity obligations?

N/A

10. Grants involving technology issues require Information Services department review and approval prior to submission to the Board to ensure compatibility with existing county systems and development tools.

N/A

11. Information Services department sign-off is required for all agenda items requesting funding for new or enhanced computer applications/systems that will interface with existing county systems/infrastructure.

N/A

12. If this is a grant funded computer/software applications project,

N/A – this is not a computer/software applications project.

C. Policy Issues N/A

D. Board Goals

This IGA helps support the County's supergoal, which is "Improving the Lives of Lane County's Youth".

E. Financial and/or Resource Considerations

This IGA will provide projected revenues of approximately \$4,200,000 over four years. It also makes us eligible for additional "Incentive Funding", which to do a large number of contributing factors cannot be reliably estimated at this time.

F. Alternatives/Options

Option 1 – To accept the motion and delegate authority to the County Administrator to sign the Intergovernmental Agreement with the State of Oregon Department of Justice.

Option 2 – Not to accept the motion. This would prevent the County Administrator from signing the IGA and funds in support of mandated services would not be received.

IV. RECOMMENDATION

To approve Option 1 and delegate authority to the County Administrator to sign the Intergovernmental Agreement with the State of Oregon Department of Justice.

V. TIMING/IMPLEMENTATION

The IGA is effective July 1, 2006 through June 30, 2010. Upon approval of this Board Order the District Attorney's Office will process the Intergovernmental Agreement for signature by the County Administrator.

VI. FOLLOW-UP

N/A

VII. ATTACHMENTS

- A. Board Order
- B. Intergovernmental Cooperative Agreement #07-GOV-DA-15

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

**RESOLUTION AND
ORDER 06-**

-) **IN THE MATTER OF DELEGATING**
-) **AUTHORITY TO THE COUNTY**
-) **ADMINISTRATOR TO EXECUTE A**
-) **FOUR-YEAR**
-) **INTERGOVERNMENTAL**
-) **AGREEMENT WITH THE OREGON**
- DEPARTMENT OF JUSTICE**

WHEREAS, the Oregon Legislature has directed county governing bodies and district attorneys via ORS 25.080(7) to enter into child support cooperative agreements; and

WHEREAS, the funding in the IGA will support a portion of the District Attorney's Office Family Law Division;

WHEREAS, this is continuation funding for the Family Law Division which has been providing Child Support Enforcement Services for many years; and

WHEREAS, the projected amount of funding to be received through this IGA, \$4,200,000, exceeds the County Administrator's authority to sign per the Lane Manual; now, therefore,

IT IS HEREBY RESOLVED AND ORDERED, that the Board of County Commissioners delegate authority to the County Administrator to execute an intergovernmental agreement with the Oregon Department of Justice.

Dated this _____ day of _____, 2006.

Bill Dwyer, Chair
Board of County Commissioners

APPROVED AS TO FORM
5/11/06 lane county
[Signature]
OFFICE OF LEGAL COUNSEL

AGREEMENT # 07-GOV-DA-15

**DEPARTMENT OF JUSTICE
COOPERATIVE AGREEMENT
CHILD SUPPORT ENFORCEMENT**

This Department of Justice Cooperative Agreement is entered into between the State of Oregon acting by and through its Department of Justice ("Department"), Lane County ("Subrecipient") and the District Attorney for Lane County ("DA").

PURPOSE

1. Department is the single state agency designated by the Governor to implement and administer the State Plan for Collection of Child Support and Establishment of Paternity and approved by United States Department of Health and Human Services (the "State Plan") in accordance with Title IV-D of the Social Security Act.
2. Department receives financial assistance from the United States Department of Health and Human Services under Title IV-D of the Social Security Act to administer the State Plan ("Federal Financial Assistance").
3. The State Plan, consistent with ORS 25.080, assigns responsibility for certain child support enforcement services to the DA.
4. The State Plan also provides for the subgrant of a portion of the Federal Financial Assistance to Subrecipient to support the delivery of child support enforcement services that fall within the responsibility of the DA.
5. ORS 25.080(6) requires Department, Subrecipient and the DA to enter into a cooperative agreement to provide for DA's implementation of its child support enforcement services in accordance with applicable federal law.
6. Department, Subrecipient and DA desire to enter into this cooperative agreement in accordance with ORS 25.080(6) to provide for DA's implementation of its child support enforcement services in accordance with applicable federal law and to provide for the Department's subgrant of a portion of the Federal Financial Assistance to Subrecipient to support the delivery of the child support enforcement services that fall within the responsibility of the DA under ORS 25.080.

NOW, THEREFORE, in consideration of the foregoing premises, the covenants set forth below, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

AGREEMENT

1. **Effective Date and Term.** This Cooperative Agreement ("Agreement") shall become effective on the later of (i) July 1, 2005 or (ii) the date this Agreement is fully executed by all parties and approved

as required by applicable law and shall continue in full force and effect through June 30, 2010, unless terminated earlier in accordance with section 11.

2. Grant.

a. Base Grant. In accordance with the terms and conditions of this Agreement, Department shall subgrant to Subrecipient, from the Federal Financial Assistance that Department receives from the United States Department of Health and Human Services, an amount (the "Base Grant") no greater than the actual Allowable Costs (as defined below) necessarily incurred and paid by DA, or directly by Subrecipient from funds other than those appropriated to the DA, during the term of this Agreement to operate the Program (as defined below). The Base Grant moneys may be used solely to deliver child support enforcement services that fall within the responsibility of the DA under ORS 25.080, as further described in Exhibit A, attached hereto and incorporated herein by this reference (the "Program").

b. Incentive Funding. In addition, in accordance with the terms and conditions of this Agreement, Department shall subgrant to Subrecipient an additional amount (the "Incentive Funding") (the Base Grant and the Incentive Funding, collectively, the "Grant") equal to Subrecipient's share of the incentive payments the Department receives from the United States Department of Health and Human Services based on implementation of the State Plan. The Incentive Funding shall equal Subrecipient's share of the incentive payments received from the United States Department of Health and Human Services, as determined in accordance with OAR 137-055-1500. The Incentive Funding moneys may be used solely for reinvestment in the Program, as reinvestment is defined in 32 CFR 305.35. Department will develop the overall estimated revenue from incentives to be included in the program budget request with input from Oregon District Attorney representatives.

3. Disbursement and Recovery of Grant Moneys.

a. Disbursement Generally.

i. Base Grant. Subject to sections 2 and 3(b), Department shall disburse the Base Grant moneys to Subrecipient quarterly after the end of each calendar quarter falling in whole or in part during the period commencing on the effective date of this Agreement and ending on the termination date of this Agreement. Quarterly disbursement will be made within 30 days after Department's receipt of Subrecipient's invoice for that quarter. Each disbursement shall be in an amount equal to the actual Allowable Costs (as defined below) necessarily incurred and paid by Subrecipient or DA during the quarter in operating the Program, as evidenced by satisfactory written documentation, multiplied by the federally-authorized rate of federal financial participation set by the United States Department of Health and Human Services in accordance with 42 USC 655, less the identical rate of enforcement fees or other fees received by Subrecipient or DA with respect to the Program during the quarter.

ii. Incentive Funding. In addition to disbursement of the Base Grant moneys to Subrecipient in accordance with section 3(a)(i) above but subject to sections 2 and 3(b), Department shall disburse the Incentive Funding moneys to Recipient in accordance with OAR 137-055-1500.

b. Conditions Precedent to Disbursement. Department's obligation to disburse Grant moneys to Subrecipient under this Agreement is subject to satisfaction, with respect to each disbursement, of each of the following conditions precedent:

i. Department has received sufficient funding, appropriations and other expenditure authorizations to allow Department, in the exercise of its reasonable administrative discretion, to make the disbursement.

ii. Department has received sufficient Federal Financial Assistance to allow Department, in the exercise of its reasonable administrative discretion, to make the disbursement.

iii. No Subrecipient or DA default as described in section 9 has occurred.

iv. With respect to the disbursement of Base Grant moneys only, Department has received a quarterly invoice for the disbursement accompanied by satisfactory written documentation evidencing the Allowable Costs for which Subrecipient is seeking reimbursement (to the extent provided for in Section 3.a.i).

v. With respect to the disbursement of Incentive Funding moneys only, Subrecipient and DA are operating the Program.

c. **Recovery of Grant Moneys.** In addition to any other remedies that may be available to Department in the event DA or Subrecipient fails to comply with the terms of this Agreement, Department may recover, in accordance with ORS 25.080(6)(b), the amount of any payments made to Subrecipient of federal funds, under Title IV-D of the Social Security Act, that are, as a result of DA's or Subrecipient's actions or omissions, later excepted, deferred, or disallowed as part of a federal or state audit or review. Notwithstanding the immediately preceding sentence, Department may not recover excepted, deferred, or disallowed payments that arise solely from (i) external problems beyond the control of Subrecipient or DA, (ii) DA or Subrecipient actions or omissions that are consistent with relevant administrative rules of the Department's Division of Child Support, relevant approved procedures of the Department's Division of Child Support, or relevant policy advice from the Child Support Program Policy Team, (iii) the failure of Department to perform its obligations under Section 7 hereof, or (iv) any combination of the foregoing.

4. Use of Grant Moneys.

a. **Base Grant.** The Base Grant moneys are available solely to cover actual Allowable Costs (as defined below) necessarily incurred and paid by DA, or directly by Subrecipient from funds other than those appropriated to the DA, to operate the Program during the term of this Agreement. Allowable Costs are those defined in Office of Management and Budget Circulars ("OMB") A-87 entitled "Cost Principles for State and Local Governments" and A-133 entitled "Audits of States, Local Governments and Non-Profit Organizations," except to the extent otherwise limited or excluded by the terms of this Agreement. Allowable Costs include the following:

i. **Personal Services:** Salaries and fringe benefits of DA's and Subrecipient's staff who operate the Program. If a staff member spends only part of his or her time on Program operations, that staff member's salary and fringe benefit costs must be equitably distributed among the Program and the staff member's other activities, based on the relative amount of staff member time and effort devoted to each activity. Subrecipient must maintain time distribution records in accordance with OMB Circulars A-87 and A-133 for staff members who only spend a portion of their time on Program operations. Upon request, Subrecipient and DA shall furnish Department with copies of the time distribution records and a description of the formula or method used by Subrecipient or DA to determine the distribution of salary and fringe benefit costs.

ii. **Materials and Contracted Services:** The costs of materials and contracted services used in locating noncustodial parents, establishing paternity, and establishing, modifying, and enforcing support obligations.

iii. **Administrative Costs:** Administrative costs incurred by Subrecipient and DA in operating the Program but only to the following extent:

(a) If Subrecipient has prepared and submitted to Department a direct cost plan, to the extent and in accordance with the direct cost plan;

(b) If Subrecipient has prepared and submitted to Department an indirect cost plan, to the extent and in accordance with the indirect cost plan; or

(c) If Subrecipient has not prepared and submitted to Department either a direct cost plan or an indirect cost plan, not more than 10 percent of the straight time salary or wages paid by Subrecipient or DA to employees for work directly related to the Program.

iv. **Capital Outlay:** The cost of equipment or furniture with a unit cost of \$5,000 to \$25,000, and the cost of equipment or furniture with a unit cost in excess of \$25,000, if approved in advance by Department. The full cost of automatic data processing equipment with a unit cost of less than \$25,000 that is used exclusively in Program operations is an Allowable Cost during the quarter in which the equipment is purchased and paid for. All other capital acquisitions must be depreciated and the costs of those capital acquisitions are Allowable Costs in a quarter only to the extent of the depreciation during that quarter. Subrecipient must maintain records of all capital acquisitions whose costs are covered in whole or in part by Grant moneys. Subrecipient may use any generally accepted method of computing depreciation but the method of computing depreciation must be consistently applied for any specific asset or class of assets and must result in equitable charges considering the extent of use of the assets. Subrecipient shall furnish property records and depreciation schedules to Department upon request.

b. **Incentive Funding.** The Incentive Funding moneys may be used solely for reinvestment in the Program, as reinvestment is defined in 32 CFR 305.35, in accordance with OMB Circulars A-87 and A-133.

5. **Records Maintenance, Audit, Access and Confidentiality.**

a. **Maintenance of Records.** Subrecipient shall document the use of all Grant moneys disbursed by Department under this Agreement and shall maintain such additional fiscal and other records related to this Agreement as may be required by applicable law. Specifically, but without limiting the generality of the preceding sentence, Subrecipient must maintain records of revenue and fees collected, expenditures made and costs incurred in operating the Program, and other such records as may be required by Department or the United States Department of Health and Human Services.

b. **Audits Generally.** The Grant moneys disbursed to Subrecipient under this Agreement are federal funds received by Department from the United States Department of Health and Human Services under the Department's Child Support Enforcement Title IV-D Grant, whose CFDA Number is 93.563, and are subject to OMB Circular A-133. Subrecipient shall comply with OMB Circular A-133, as applicable, including the applicable audit requirements. If Subrecipient qualifies for an OMB Circular A-133 audit, Subrecipient shall notify Department in writing of such qualification promptly after Subrecipient determines that it so qualifies, shall report the Grant moneys received hereunder as pass through funds on Subrecipient's Schedule of Expenditures of Federal Awards, and promptly after completion of the audit shall furnish Department with a written copy of all audit findings applicable to Subrecipient's Program or the Oregon Child Support Program (as defined below) or notify Department in writing that the audit resulted in no findings applicable to Subrecipient's Program or the Oregon Child Support Program.

c. **Compliance Audits.** Subrecipient shall assist in all compliance audits of Subrecipient's Program or the Oregon Child Support Program conducted by Department, the Secretary of State's Office

of the State of Oregon, the United States Department of Health and Human Services, the federal Office of Child Support Enforcement or their duly authorized representatives.

d. Accounting. Unless applicable federal law requires Subrecipient to utilize a different accounting system, Subrecipient shall create and maintain all fiscal records in accordance with generally accepted accounting principles and in sufficient detail to permit Department, the Secretary of State's Office of the State of Oregon, the United States Department of Health and Human Services, the federal Office of Child Support Enforcement and their authorized representatives, to verify how the Grant moneys were used.

e. Retention of Records. Subrecipient shall retain and keep accessible all books, documents, papers, and records (whether in electronic or hard copy form) that are directly related to this Agreement or the Grant moneys for a minimum of three (3) years, or such longer period as may be required by other provisions of this Agreement or applicable law, following termination of this Agreement. If there are unresolved audit questions at the end of the three-year period, Subrecipient shall retain the records until the questions are resolved.

f. Access to Records and Facilities. The Department, the Secretary of State's Office of the State of Oregon, the United States Department of Health and Human Services, the federal Office of Child Support Enforcement, and their duly authorized representatives shall have access to the books, documents, papers and records (whether in electronic or hard copy form) of Subrecipient that are directly related to this Agreement or the Grant moneys provided hereunder, including but not limited to the books, documents, papers and records described in 45 CFR 305.65, for the purpose of making audits and examinations, including but not limited to audits required by OMB Circular A-133. In addition, the Department, the Secretary of State's Office of the State of Oregon, the United States Department of Health and Human Services, the federal Office of Child Support Enforcement and their duly authorized representatives may make and retain excerpts, copies and transcriptions of the foregoing books, documents, papers and records. Subrecipient shall permit authorized representatives of Department, the Secretary of State's Office of the State of Oregon, the United States Department of Health and Human Services and the federal Office of Child Support Enforcement to perform site reviews of all services delivered as part of the Program.

g. Confidentiality. In operating the Program, Subrecipient and DA shall comply with 42 USC § 654(26), ORS 25.260 and 418.135, OAR 137-055-1140 and 137-055-1145, and all other applicable laws relating to confidentiality.

6. Coordination of State Plan Implementation and Administration.

a. Federal Coordination. The parties agree and acknowledge that Subrecipient's and DA's Program is part of the overall child support program administered by Department throughout the State of Oregon in accordance with the State Plan, ORS 25.080 and Title IV-D of the Social Security Act (the "Oregon Child Support Program"). The parties further agree and acknowledge that the director of the Department's Division of Child Support is the Oregon IV-D Director (the "Oregon Child Support Program Director") and that the Oregon Child Support Director is responsible for direct coordination of Oregon Child Support Program activities with other states and the federal government, and for necessary coordination with the United States Department of Health and Human Services. The parties further agree and acknowledge that the Department is responsible for communications, on behalf of the Oregon Child Support Program, with the federal government related to law, proposed or pending legislation, regulations, policies, and procedures concerning Title IV-D of the Social Security Act. If Subrecipient or the DA wishes to communicate, on behalf of the Oregon Child Support Program, with the federal government regarding such matters, Subrecipient or the DA, as the case may be, must consult with the Oregon Child Support Program Director prior to making such communication. Department will provide

to Subrecipient and the DA, in a timely manner, all relevant information concerning any new federal policies, requirements, and procedures relating to any aspect of child support or the Oregon Child Support Program. This Section 6.a is not intended, and shall not be construed as giving, the Department the authority to prevent Subrecipient and the DA from communicating with the federal government. Rather, the purpose of this Section 6.a is to support the Oregon Child Support Program Director's responsibility to administer a coordinated Oregon Child Support Program, by making the Oregon Child Support Program Director aware of such communications on behalf of the Oregon Child Support Program.

b. Policy and Procedure Coordination. Department, Subrecipient and the DA shall cooperate in the creation and maintenance of procedures for the purpose of establishing and revising policies, procedures and proposed legislation relating to the Oregon Child Support Program which affect the parties to this Agreement. Department, Subrecipient and the DA shall provide to each other party to this Agreement, advance copies of policy and legislative proposals including proposed administrative rules and draft legislation. If the DA pursues legislation independent of the Oregon Child Support Program, the DA will consult with the Oregon Child Support Program Director and coordinate such legislation with the Oregon Child Support Program Director to the fullest extent possible. Nothing herein seeks to preclude the DA, either directly or through the Oregon District Attorney's Association, or any other party to this Agreement from seeking or opposing legislation deemed to have an effect on that party. If Subrecipient or the DA attempts to influence federal legislation, the Subrecipient or the DA, as the case may be, shall file any reports required under the federal "Truth in Lobbying Act" (31 USC 1352) or other applicable federal law.

c Information Systems Access and Database Coordination.

i. Subject to the conditions set forth below, Department shall provide the DA and Subrecipient with access to the Department's Child Support Enforcement Automated System ("CSEAS") computerized database, via modem or other mutually agreed connection, for computer terminals, printers and ancillary information technology equipment installed in the appropriate offices designated by DA or Subrecipient for the purpose of operating the Program. In connection with CSEAS database access, Department shall provide Subrecipient and DA with the Department's policies, procedures and technical information regarding access to the CSEAS database, related and necessary software, assistance in the installation of computer terminals, printers and ancillary information technology equipment necessary to access the CSEAS database, as reasonably necessary, and technical assistance, as reasonably requested, in accessing and using the CSEAS data system programs and information in the database, including support for generation of automated forms, printer connectivity, RACF administration, and caseload distribution, all in accordance with the terms and conditions of this Agreement. Subrecipient and DA may access the CSEAS computerized database solely for the purpose and to the extent necessary to operate the Program and consistent with all federal and state laws, rules, regulations and policies including, but not limited to, those governing the confidentiality and security of the information contained in the CSEAS database. Department's obligation to provide the DA and Subrecipient with access to CSEAS is subject to satisfaction of each of the following conditions precedent:

(a) The Department of Human Services Mainframe housing the CSEAS database is operational.

(b) Provision of such access will not degrade the service provided to other users of the CSEAS database.

(c) Subrecipient assumes the reasonable cost of providing the information systems and database service.

(d) Subrecipient purchases, installs and maintains, at its expense (except to the extent such expenses are Allowable Costs), the computer terminals, printers and other ancillary information technology equipment, necessary to access CSEAS, in a secured location and limits access to that location to the equipment, and to the records of various State of Oregon agencies available in CSEAS to authorized Subrecipient and DA personnel who have a need to access CSEAS information to operate the Program.

(e) The computer technology and software used by Subrecipient and DA to access information in the CSEAS database is compatible with the CSEAS computer technology configuration and will not adversely impact operation of the Oregon Child Support Program.

7. Department Obligations. In addition to Department's obligation to disburse the Grant moneys to Subrecipient in accordance with the terms and conditions of this Agreement, Department shall:

a. Act as the liaison to federal office of Child Support Enforcement ("OCSE") with respect to child support enforcement activities in Oregon.

b. Adopt administrative rules to govern and provide overall policy direction for the Oregon Child Support Program, after solicitation and consideration of DA suggestions and in consultation with child support enforcement stakeholders.

c. As necessary to meet federal requirements, conduct self-assessment audits of child support enforcement cases handled by the DA as part of Subrecipient's and DA's Program.

d. Prepare and submit to OCSE the reports required by 42 USC § 655 and 45 CFR § 301.15, with respect the overall Oregon Child Support Program activities in Oregon.

e. Based on and to the extent of information entered into the CSEAS computerized database by DA or Subrecipient, maintain support payment records and provide billing, receipting, depositing, distribution, accounting, and record-keeping services for payments on all child support enforcement cases handled by the DA as part of Subrecipient's and DA's Program.

f. Provide certain centralized enforcement services for child support enforcement cases handled by the DA as part of Subrecipient's and DA's Program, including but not limited to, automated aspects of tax refund offset, financial institution data matching, income withholding, and location of parents.

g. Encourage DA participation in committees and subcommittees formed by Department to consider and recommend changes to the Oregon Child Support Program to improve its operation.

h. Prepare and furnish to Subrecipient and DA copies of the quarterly federal 396 and 34A reports and the annual federal 157 reports and well as periodic reports on the performance of the Oregon Child Support Program on the performance measures that impact the Incentive Funding.

8. Reporting Requirements. In addition to any other reports required by applicable law, Subrecipient and DA shall submit to Department the following:

a. All information on Subrecipient's and DA's Program required by Department to complete and submit in a timely manner the reports identified in Section 7(d).

b. All child support enforcement cases undertaken by DA or Subrecipient, for entry into the data system used by Department for the provision of child support billing, collection, accounting, distribution, and automated enforcement activities.

c. Narrative information on all child support enforcement services provided by DA and Subrecipient, all child support enforcement actions taken by DA and Subrecipient, and significant contacts by DA and Subrecipient with parties involved in a child support enforcement case. This information must be entered electronically directly into CSEAS.

9. Subrecipient and DA Default.

a. Subrecipient shall be in default under this Agreement upon the occurrence of any of the following events:

i. Subrecipient fails to perform, observe or discharge any of its covenants, agreements or obligations set forth herein and does not correct such failure within 90 days of written notice thereof, in accordance with a corrective action plan submitted to Department within 30 days after the written notice.

ii. Any representation, warranty or statement made by Subrecipient herein or in any documents or reports relied upon by Department to measure Subrecipient's compliance with this Agreement, the expenditure of Grant moneys or the performance by Subrecipient under this Agreement is untrue in any material respect when made and Subrecipient does not correct such inaccuracy, and address any consequences thereof within 90 days of written notice thereof, in accordance with a corrective action plan submitted to Department within 30 days after the written notice;

iii. Subrecipient (i) applies for or consents to the appointment of, or taking of possession by, a receiver, custodian, trustee, or liquidator of itself or all of its property, (ii) admits in writing its inability, or is generally unable, to pay its debts as they become due, (iii) makes a general assignment for the benefit of its creditors, (iv) is adjudicated a bankrupt or insolvent, (v) commences a voluntary case under the Federal Bankruptcy Code (as now or hereafter in effect), (vi) files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, (vii) fails to controvert in a timely and appropriate manner, or acquiesces in writing to, any petition filed against it in an involuntary case under the Bankruptcy Code, or (viii) takes any action for the purpose of effecting any of the foregoing; or

iv. A proceeding or case is commenced, without the application or consent of Subrecipient, in any court of competent jurisdiction, seeking (i) the liquidation, dissolution or winding-up, or the composition or readjustment of debts, of Subrecipient, (ii) the appointment of a trustee, receiver, custodian, liquidator, or the like of Subrecipient or of all or any substantial part of its assets, or (iii) similar relief in respect to Subrecipient under any law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts, and such proceeding or case continues undismissed, or an order, judgment, or decree approving or ordering any of the foregoing is entered and continues unstayed and in effect for a period of sixty consecutive days, or an order for relief against Subrecipient is entered in an involuntary case under the Federal Bankruptcy Code (as now or hereafter in effect).

b. DA shall be in default under this Agreement upon the occurrence of any of the following events:

i. DA fails to perform, observe or discharge any of its covenants, agreements or obligations set forth herein and does not correct such failure within 90 days of written notice thereof, in accordance with a corrective action plan submitted to Department within 30 days after the written notice.

ii. Any representation, warranty or statement made by DA herein or in any documents or reports relied upon by Department to measure DA's compliance with this Agreement, the

expenditure of Grant moneys or the performance by DA under this Agreement is untrue in any material respect when made and DA does not correct such inaccuracy, and address any consequences thereof within 90 days of written notice thereof, in accordance with a corrective action plan submitted to Department within 30 days after the written notice;

10. Department Default. Department shall be in default under this Agreement upon the occurrence of any of the following events:

a. Department fails to perform, observe or discharge any of its covenants, agreements, or obligations set forth herein and does not correct such failure within 90 days of written notice thereof, in accordance with a corrective action plan submitted to DA within 30 days after the written notice; or

b. Any representation, warranty or statement made by Department herein is untrue in any material respect when made and Department does not correct such inaccuracy, and address any consequences thereof within 90 days of written notice thereof, in accordance with a corrective action plan submitted to DA within 30 days after the written notice.

11. Termination.

a. **Department Termination.** Department may terminate this Agreement:

i. Upon 90 calendar days advance written notice to Subrecipient and DA;

ii. Effective upon written notice to Subrecipient and DA, if Department does not obtain funding, appropriations and other expenditure authorizations from federal, state or other sources sufficient to satisfy its performance obligations under this Agreement, as determined by Department in the reasonable exercise of its administrative discretion;

iii. Effective upon written notice to Subrecipient and DA if Oregon statutes or federal laws, regulations or guidelines are modified, changed or interpreted by the Oregon Legislative Assembly, the federal government or a court in such a way that the Department no longer has the authority to satisfy its performance obligations under this Agreement or no longer has the authority to provide the Grant moneys from the funding source it had planned to use;

iv. Upon 30 days advance written notice to Subrecipient and DA, if Subrecipient or DA is in default under this Agreement; or

v. Effective upon written notice to Subrecipient and DA, if any license or certificate required by law or regulation to be held by Subrecipient or DA to satisfy its performance obligations under this Agreement is for any reason denied, revoked, suspended, not renewed.

b. **DA Termination.** After consultation with Subrecipient, DA may terminate this Agreement:

i. Upon at least 90 calendar days advance written notice to Department and Subrecipient;

ii. Effective upon written notice to Department and Subrecipient, if DA fails to receive from Subrecipient sufficient appropriations, limitations or other expenditure authority to permit DA to satisfy its performance obligations under this Agreement, as determined by DA in the reasonable exercise of its administrative discretion;

iii. Upon 30 calendar days advance written notice to Department and Subrecipient, if Department is in default under this Agreement; or

iv. Effective upon written notice to Department and Subrecipient, if Oregon statutes or federal laws, regulations or guidelines are modified, changed or interpreted by the Oregon Legislative Assembly, the federal government or a court in such a way that DA no longer has the authority to satisfy its obligations under this Agreement.

c. **Subrecipient Termination.** After consultation with DA, Subrecipient may terminate this Agreement:

i. Upon at least 90 calendar days advance written notice to Department and DA;

ii. Effective upon written notice to Department and DA, if Subrecipient fails to receive sufficient funding from federal, state or other sources to permit Subrecipient to satisfy its performance obligations under this Agreement, as determined by Subrecipient in the reasonable exercise of its administrative discretion.

iii. Upon 30 calendar days advance written notice to Department and DA, if Department is in default under this Agreement; or

iv. Effective upon written notice to Department and DA, if Oregon statutes or federal laws, regulations or guidelines are modified, changed or interpreted by the Oregon Legislative Assembly, the federal government or a court in such a way that Subrecipient no longer has the authority to satisfy its obligations under this Agreement.

12. **Effect of Termination.**

a. **Rights and Obligations.** Upon termination of this Agreement, all rights and obligations of the parties arising under this Agreement shall end except those rights and obligations described in Section 12.b.

b. **Survival.** Notwithstanding Section 12.a, termination of this Agreement shall not affect Subrecipient's or DA's obligations under this Agreement or Department's right to enforce this Agreement against Subrecipient and DA in accordance with its terms, with respect to Grant moneys actually received by Subrecipient under this Agreement. Specifically, but without limiting the generality of the preceding sentence, termination of this Agreement shall not affect Subrecipient's and DA's representations and warranties, reporting obligations, obligations regarding use of the Grant moneys, record-keeping, audit, access and confidentiality obligations, obligations to comply with applicable federal requirements, or the Department's right to recover from Subrecipient, in accordance with the terms of this Agreement, any Grant moneys actually received by Subrecipient. In addition, termination of this Agreement shall not affect Department's obligation to reimburse Subrecipient, or Subrecipient's right to obtain reimbursement from Department, in accordance with and at rates set forth in Section 3.a of this Agreement, for all actual Allowable Costs necessarily incurred and paid by Subrecipient or DA after the effective date, to operate the Program during the period commencing on the effective date of this Agreement and ending on the termination date of this Agreement; provided, however, that Department shall have no obligation to reimburse an Allowable Costs more than two years after the date that Subrecipient incurred the cost. If a termination right set forth in sections 10 or 11 of this Agreement is exercised, both parties shall make reasonable good faith efforts to minimize unnecessary disruption or other problems associated with the termination.

13. General.

a. Notice. Except as otherwise expressly provided in this Agreement, any communications between the parties hereto or notices to be given hereunder shall be given in writing by personal delivery, facsimile, or mailing the same, postage prepaid to Subrecipient, the DA, or the Department at the address or number set forth below, or to such person or at such other addresses or numbers as a party may indicate by notice to all other parties pursuant to this section. Any communication or notice so addressed and mailed shall be effective five (5) days after mailing. Any communication or notice delivered by facsimile shall be effective on the day the transmitting machine generates a receipt of the successful transmission, if transmission was during normal business hours of the recipient, or on the next business day, if transmission was outside normal business hours of the recipient. Any communication or notice given by personal delivery shall be effective when actually delivered.

Notices to Department:

Child Support Program Director
Department of Justice
Child Support Program
494 State Street, Suite 300
Salem, OR 97301

Notices to Subrecipient:

Lane County, County Administrator
William A. Van Vactor
125 E 8th Ave, Rm 400
Eugene, OR 97401

Notices to District Attorney

Lane County District Attorney
Doug Harclerod
125 E 8th Ave, Rm 400
Eugene, OR 97401

b. Severability. The parties agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.

c. Counterparts. This Agreement may be executed in several counterparts, all of which when taken together shall constitute one agreement binding on all parties, notwithstanding that all parties are not signatories to the same counterpart. Each copy of this Agreement so executed shall constitute an original.

d. Governing Law, Consent to Jurisdiction. This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "Claim") between Department (and/or any other agency or department of the State of Oregon) and another party to this Agreement that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion County in the State of Oregon. In no event shall this section be construed as a waiver by the State of Oregon of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise, from any Claim or from the jurisdiction of any court. EACH PARTY, BY EXECUTION OF

THIS AGREEMENT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS.

e. **Compliance with Law.** Subrecipient and the DA shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the Agreement or to the operation of the Program. Without limiting the generality of the foregoing, Subrecipient and the DA each expressly agrees to comply with the following laws, regulations and executive orders to the extent they are applicable to the Agreement or the Program: (a) Title IV-D of the Social Security Act and its implementing federal regulations and all other applicable federal regulations and requirements, (b) all applicable requirements of state civil rights and rehabilitation statutes, rules and regulations, (c) ORS 659A.403 to 659A.406, ORS 659.430 and all regulations and administrative rules established pursuant to those laws in the construction, remodeling, maintenance and operation of any structures and facilities, and in the conduct of all programs, services and training associated with the operation of the Program, (d) ORS 659A.142, and (e) the federal laws described in Exhibit B, attached hereto and incorporated herein by this reference. These laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable to the Agreement or Program and required by law to be so incorporated. All employers, including Subrecipient and DA, that employ subject workers who provide services in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126.

f. **Assignment of Agreement, Successors in Interest.**

(i) Neither Subrecipient nor the DA shall assign or transfer any interest in this Agreement, enter into any subcontracts for delivery of support enforcement services or limited income withholding services (as described in Exhibit A), or subgrant any Grant moneys, without the prior written approval of Department. Any such assignment, transfer, subcontract or subgrant, if approved, is subject to such conditions and provisions as the Department may deem necessary. No approval by the Department of any assignment, transfer, subcontract or subgrant shall be deemed to create any obligation of the Department in addition to those set forth in the Agreement nor will Department's approval of an assignment, transfer, subcontract or subgrant relieve Subrecipient or the DA of any of its duties or obligations under this Agreement.

(ii) The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors and permitted assigns.

g. **No Third Party Beneficiaries.** Department, Subrecipient and the DA are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to any other person or entity unless such person or entity is individually identified by name herein and expressly described as an intended beneficiary of the terms of this Agreement.

h. **Integration and Waiver.** This Agreement, including all Exhibits, constitutes the entire agreement between the parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. The failure of a party to enforce a provision of this Agreement shall not constitute a waiver by that party of that or any other provision.

i. **Amendment.** No waiver, consent, modification or change of terms of this Agreement shall bind either party unless in writing and signed by all parties and when required approved for legal sufficiency. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. Subrecipient and the DA, by signature of its authorized

representative, hereby acknowledges that it has read this Agreement, understands it, and agrees to be bound by its terms and conditions.

j. Headings. The headings and captions to sections of this Agreement have been inserted for identification and reference purposes only and shall not be used to construe the meaning or to interpret this Agreement.

k. Independent Contracting Parties. The parties agree and acknowledge that their relationship is that of independent contracting parties and that neither Subrecipient nor the DA is an officer, employee, or agent of Department as those terms are used in ORS 30.265 or otherwise.

l. Force Majeure. No party shall be held responsible for delay or default caused by fire, civil unrest, natural causes and war which is beyond that party's reasonable control. Each party shall, however, make all reasonable efforts to remove or eliminate such cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this Agreement.

m. Responsibility for Employees, Officers and Agents. Subrecipient and the DA shall be responsible exclusively with respect to their respective employees, for providing for employment-related benefits and deductions that are required by law, including but not limited to federal and state income tax deductions, workers' compensation coverage, and Public Employees Retirement System contributions. Subrecipient, the DA, and Department each shall be responsible, to the extent required by the Oregon Tort Claims Act (ORS 30.260-30.300), only for the acts, omissions or negligence of its own officers, employees or agents.

n. Termination of Prior Agreement. Effective on the day immediately prior to the date that this Agreement becomes effective, Subrecipient, DA and Department (as the successor in interest to the Department of Human Services thereunder) hereby terminate, pursuant to Section V.C.1 thereof, that certain Intergovernmental Agreement dated as of July 23, 2002 by and among Subrecipient, DA and the State of Oregon acting by and through its Department of Human Services and including any amendments thereto.

o. Remedies not Exclusive. The remedies provided to a party, under the terms of this Agreement, for another party's breach of its obligations under this Agreement are not exclusive and are in addition to any remedies provided by law or in equity.

IN WITNESS WHEREOF, THE PARTIES HERETO HAVE EXECUTED THIS AGREEMENT AS OF THE DATES SET FORTH BELOW THEIR RESPECTIVE SIGNATURES.

STATE OF OREGON ACTING BY AND THROUGH ITS
DEPARTMENT OF JUSTICE

By: _____

Peter Shepherd
Deputy Attorney General

Date: _____

LANE COUNTY

By: LANE COUNTY GOVERNING BODY

By: _____

Name: William A. Van Vactor

Title: County Administrator

Date: _____

DA

By:  _____

Name: Doug Harclerod

Title: District Attorney

Date: 2/24/06 _____

Approved for legal sufficiency in accordance with ORS 291.047:

/s/ Keith Kutler, per email dated February 28, 2006

Assistant Attorney General

Date

**DEPARTMENT OF JUSTICE
COOPERATIVE AGREEMENT
EXHIBIT A
PROGRAM DESCRIPTION**

The Grant moneys are available to Subrecipient and DA, subject to and in accordance with the terms and conditions of this Agreement, solely to operate a child support enforcement program consisting of (a) the support enforcement services described in ORS 25.080(4) for any order or judgment that is or could be entered under ORS Chapter 107, 108, 109, 110 or 416 or ORS 419B or 419C and (b) the limited income withholding services described in ORS 25.381. Subrecipient and DA must operate their support enforcement program in accordance with the following procedural and operational requirements:

1. The program must satisfy the requirements of Title IV-D of the Social Security Act, as set forth in: (a) the State Plan, (2) applicable Oregon Revised Statutes and Oregon Administrative Rules, and (3) applicable federal laws and regulations, specifically including Title IV-D of the Social Security Act (42 USC § 651 *et seq*) and Title 45 of the Code of Federal Regulations, Parts 300 to 399.
2. Subrecipient and DA must make the support enforcement services described above available to any person described in ORS 25.080 who requests such services and to whom the DA is responsible for providing such services under ORS 25.080. In addition, Subrecipient and DA must make limited income withholding services under the provisions of ORS 25.381 available to an obligor or obligee who requests such services and to whom the DA is responsible for providing support enforcement services under ORS 25.080.
3. Subrecipient and DA shall comply with the following non-discrimination requirements:
 - a. Neither Subrecipient nor DA shall, on the basis of race, color, religion, sex, national origin, language or dialect, creed, marital status, age, or the presence of any sensory, mental, or physical handicap:
 - i. Deny an otherwise eligible individual services supported in whole or in part with Grant moneys.
 - ii. Provide any services or other benefits, supported in whole or in part with Grant moneys, to an individual that are different, or are provided in a different manner, from those provided to other similarly situated individuals, except where necessary to accommodate the unique circumstances of the individual.
 - b. Subrecipient and DA shall make available reasonable translation services for any individual described in ORS 25.080 who is not fluent in English and who requests translation services and with respect to whom the DA is responsible for providing such services under ORS 25.080. Necessary translation services are an Allowable Cost and therefore a permissible use of Grant moneys.

**DEPARTMENT OF JUSTICE
COOPERATIVE AGREEMENT
EXHIBIT B
REQUIRED FEDERAL TERMS AND CONDITIONS**

In addition to the requirements of section 14.e of the Agreement, in operating the Program, Subrecipient and DA shall comply with the following federal requirements. For purposes of this Agreement, all references to federal and state laws are references to federal and state laws as they may be amended from time to time.

1. Miscellaneous Federal Provisions. Subrecipient and DA shall comply with all federal laws, regulations, and executive orders applicable to the Agreement or to the operation of the Program. Without limiting the generality of the foregoing, Subrecipient and DA expressly agree to comply with the following laws, regulations and executive orders to the extent they are applicable to the Agreement or the Program: (a) Titles VI and VII of the Civil Rights Act of 1964, as amended, (b) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended, (c) the Americans with Disabilities Act of 1990, as amended, (d) Executive Order 11246, as amended, (e) the Health Insurance Portability and Accountability Act of 1996, (f) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended, (g) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, (h) all regulations and administrative rules established pursuant to the foregoing laws, and (i) all other applicable requirements of federal civil rights and rehabilitation statutes, rules and regulations. These laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable to the Agreement and required by law to be so incorporated. No federal funds may be used to provide services in violation of 42 USC 14402.

2. Equal Employment Opportunity. If this Agreement, including amendments, is for more than \$10,000, then Subrecipient and DA shall comply with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR Part 60).

3. Clean Air, Clean Water, EPA Regulations. If this Agreement, including amendments, exceeds \$100,000 then Subrecipient and DA shall comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1857(h)), the Federal Water Pollution Control Act as amended (commonly known as the Clean Water Act) (33 U.S.C. 1251 to 1387), specifically including, but not limited to Section 508 (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15), which prohibit the use under non-exempt Federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities. Violations shall be reported to the Department, HHS and the appropriate Regional Office of the Environmental Protection Agency.

4. Energy Efficiency. Subrecipient and DA shall comply with applicable mandatory standards and policies relating to energy efficiency that are contained in the Oregon energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163).

5. Truth in Lobbying. Subrecipient and DA each certify, to the best of their knowledge and belief that:

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

b. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan or cooperative agreement, the Subrecipient shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions.

c. Subrecipient and DA shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients and subcontractors shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this Agreement was made or entered into. Submission of this certification is a prerequisite for making or entering into this Agreement imposed by section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

6. Resource Conservation and Recovery. Subrecipient and DA shall comply with all mandatory standards and policies that relate to resource conservation and recovery pursuant to the Resource Conservation and Recovery Act (codified at 42 USC 6901 et. seq.). Section 6002 of that Act (codified at 42 USC 6962) requires that preference be given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by the Environmental Protection Agency. Current guidelines are set forth in 40 CFR Parts 247-253.

7. Audits. Subrecipient and DA shall comply with the applicable audit requirements and responsibilities set forth in the Office of Management and Budget Circular A-133 entitled "Audits of States, Local Governments and Non-Profit Organizations."

8. Debarment and Suspension. Subrecipient and DA shall not purchase goods or services in implementation of the Program from any person or entity listed on the non-procurement portion of the General Service Administration's "List of Parties Excluded from Federal Procurement or Nonprocurement Programs" in accordance with Executive Orders No. 12,549 and No. 12,689, "Debarment and Suspension". (See 45 CFR part 76). This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory authority other than Executive Order No. 12549. Subrecipient and DA shall require all vendors with awards that exceed the simplified acquisition threshold to provide the required certification regarding their exclusion status and that of their principals prior to award.

9. **ADA.** Subrecipient and DA shall comply with Title II of the Americans with Disabilities Act of 1990 (codified at 42 USC 12131 *et. seq.*) in the construction, remodeling, maintenance and operation of any structures and facilities, and in the conduct of all activities, services and training associated with the Program.

10. **National Voter Registration Act.** Subrecipient and DA shall comply with the Agency-based Voter Registration sections of the National Voter Registration Act of 1993 which require voter registration opportunities to be offered to applicants for services.

11. **Servicemembers Civil Relief Act.** Subrecipient and DA shall comply with the Servicemembers Civil Relief Act (codified at 50 USC App. 501 *et. seq.*).

12. **Access to Federal Taxpayer Information.** If Subrecipient or DA contracts with other persons to perform custodial or janitorial work in locations in which Subrecipient or DA conducts Program activities, provides Program services or stores Program information, Subrecipient or DA, as the case may be, shall include the following provisions in its contract with such persons:

a. Each officer or employee of any person to whom federal income tax returns or return information is or may be disclosed or who may come into contact with federal income tax returns or return information will be notified in writing by such person that such returns or return information is confidential and may not be further disclosed by the officer or employee and that further disclosure of any such returns or return information constitutes a felony punishable upon conviction by a fine of as much as \$5,000 or imprisonment for as long as 5 years, or both, together with the costs of prosecution. Such person shall also notify each such officer and employee that any such further disclosure of returns or return information may also result in an award of civil damages against the officer or employee in an amount not less than \$1,000 with respect to each instance of disclosure. These penalties are prescribed by IRC sections 7213 and 7431 and set forth at 26 CFR 301.6103(n)-1.

b. Each officer or employee of any person to whom returns or return information is or may be disclosed or who may come into contact with federal income tax returns or return information shall be notified in writing by such person that any return or return information made available in any format may not be used by such officer or employee for any purpose.. Information contained in such material shall be treated as confidential and shall not be divulged or made known in any manner to anyone else. Inspection by or disclosure to anyone constitutes a criminal misdemeanor punishable upon conviction by a fine of as much as \$1,000 or imprisonment for as long as 1 year, or both, together with the costs of prosecution. Such person shall also notify each such officer and employee that any such inspection or disclosure of returns or return information may also result in an award of civil damages against the officer or employee in an amount equal to the sum of the greater of \$1,000 for each act of inspection or disclosure with respect to which such defendant is found liable or the sum of the actual damages sustained by the plaintiff as a result of such inspection or disclosure plus in the case of a willful inspection or disclosure which is the result of gross negligence, punitive damages, plus the costs of the action. These penalties are prescribed by IRC section 7213A and 7431.

c. Additionally, it is incumbent upon the contractor to inform its officers and employees of the penalties for improper disclosure imposed by the Privacy Act of 1974, 5 U.S.C. 552a. Specifically, 5

U.S.C. 552a(i)(1), which is made applicable to contractors by 5 U.S.C. 552a(m)(1), provides that any officer or employee of a contractor, who by virtue of his/her employment or official position, has possession of or access to agency records which contain individually identifiable information, the disclosure of which is prohibited by the Privacy Act or regulations established thereunder, and who knowing that disclosure of the specific material is prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000.

d. The IRS and the agency shall have the right to send its officers and employees into the offices and plants of the contractor for inspection of the facilities and operations provided for the performance of any work under this contract. On the basis of such inspection, specific measures may be required in cases where the contractor is found to be noncompliant with contract safeguards.