

**HEAD START DELEGATE AGENCY
AGREEMENT**

THIS AGREEMENT is entered into as of this ____day of _____ 200__ by and between the _____, a nonprofit corporation organized and existing under the laws of the _____ located at _____, hereinafter referred to as ____, and _____ located at _____, hereinafter referred to as the Delegate.

WITNESSETH THAT:

RECITAL

WHEREAS, ___ received grants from the U.S. Department of Health and Human Services, hereinafter referred to as DHHS, and said grants is designated as Head Start and Early Head Start Grant _____; and

WHEREAS, said grants are effective from August 1, 2007 through July 31, 2008; and

WHEREAS, pursuant to said grant, ___ is to carry out a Head Start and Early Head Start programs; and

WHEREAS, ___ desires to engage the Delegate to render certain assistance to promote the effectiveness of its Head Start and/or Early Head Start program(s); and

WHEREAS, in order to assure continuity of program operations, ___ hereby authorizes the Delegate to continue its Head Start and/or Early Head Start program(s); and

NOW, THEREFORE, ___ and the Delegate do mutually agree as follows:

**SECTION ONE`
SERVICES TO BE RENDERED**

The Delegate shall provide high-quality child development services to ___ **eligible Head Start children, ages 3 to 5 years old** and or ___ **eligible Early Head Start children, ages__ to__ years old** residing in the _____ from low-income families (i.e. family income that does not exceed the current federal income poverty guidelines issued by the DHHS) and quality services to their families in accordance with the Head Start Act, as amended; the federal Head Start Program Performance Standards and Other Regulations at 45 C.F.R. subtitle B. Chapter XIII, Subchapter B, Parts 1301- 1311; Program Instructions (PIs) and Information Memorandums (IMs); and any other applicable state and

federal laws and regulations, in a satisfactory and proper manner, to be determined by ___ as described in the attached **Scope of Services, Appendix A** and incorporated in this Agreement. The Delegate shall achieve the program goals and conduct the activities as indicated in the aforementioned Appendix.

SECTION TWO **OPERATING PERIOD**

This Agreement shall be effective the **1st day of August, 2007 and shall terminate on the 31st day of July, 2008**. Any letter agreement issued subsequent to the execution of this Agreement which allows the Delegate to operate its Head Start and or Early Head Start Program beyond **July 31, 2007**, shall be considered a part of this Agreement, unless otherwise indicated.

SECTION THREE **ENROLLMENT AND ATTENDANCE**

The Delegate shall maintain successful recruitment and full enrollment at its funded enrollment level as stated in SECTION ONE, Services to be Rendered above, of eligible children and appropriate average daily attendance in the Head Start Program as set forth in Appendix A Scope of Services herein. The minimum average daily attendance rate is 85% of the funded slots.

___ shall provide a period of thirty calendar days but no more than sixty calendar days for the Delegate whose actual enrollment has dropped below its funded enrollment to increase enrollment to or above 100 percent of the total number of funded slots. Based upon the availability of funds, ___ shall offer technical assistance to the Delegate in order to increase enrollment. If the Delegate does not achieve full enrollment by the end of the thirty to sixty day period established by ___ and considering the technical assistance requested and provided, ___ will take appropriate remedial action as follows:

1. Grant funds may be reduced in approximate relationship to the number of unfilled slots, i.e., the difference between actual and funded enrollment at the end of the thirty to sixty day compliance period. This would occur at the time of the refunding grant award immediately following the end of the compliance period or the subsequent grant award, whichever is reasonable considering the results of the Delegate's apparent effort to achieve funded enrollment and the time relationship between the end of the compliance period and the Delegate's next budget year.
2. In the case of flagrant or continued failure of the Delegate to reach funded enrollment, consideration will be given to suspension or termination in accordance with SECTION EIGHTEEN Suspension and Termination Procedures herein, and ___ may disallow costs associated with the unfilled funded enrollment. ___ would reach a conclusion of continued under enrollment for example, if a Delegate experienced repeated periods of substantial under enrollment in spite of its own special efforts and ___ technical assistance and compliance periods.

A Delegate which fails to provide family support services when average daily attendance falls below 85 percent, enforcement shall be on the same basis as failure to implement any other of the program performance standards and may be the occasion for suspension or termination.

The terms and conditions set forth above regarding average daily attendance do not apply to home-based

program, parent-child centers, experimental and demonstration programs.

SECTION FOUR **REPORTING REQUIREMENTS**

The Delegate shall submit two copies of the following progress reports to the Deputy Officer for Preschool and Day Care (DOPDC):

1. Program Information Report Summary - Monthly
Due: 5th day of each month.
2. Narrative Progress Report - reports by component objectives, accomplishments, training events and problems of the program.
Due: Quarterly - 10th day of each month,
3. Center by Center class listing noting name, address age, whether disabled, and status of parents (whether working or in training).
Due: Quarterly - 10th day of the month.
4. Quarterly Training Plan Update - describe all training activities that occurred during that period.
Due: Quarterly - 10th day of the month.
5. QIP (Quality Improvement Plan) Tracking Report
Due: 5th day of each month after self-assessment findings are determined.
6. Enrollment/Attendance Report for Head Start and or Early Head Start
Due: 5th day of each month.
7. Disabilities Report
Due: 5th day of each month.

The Delegate shall also submit to ___ all other necessary reports which may be required by DHHS or ___.

Not-later-than **July 31, 2008**, the Delegate will furnish ___ with two copies of a final written report which will include an analysis of accomplishments and problems encountered and will be responsive to any questions or other requests for information by ___.

SECTION FIVE **MONITORING AND ASSESSMENT**

___ shall conduct on-going monitoring and assessment of the Delegate's Head Start and or Early Head Start Programs and will confer with the Delegate's staff as ___ deems necessary. The Delegate agrees to fully cooperate with ___ and with any other organization or individual engaged by ___ for this purpose.

The ___ Director, Office of Organizational Development and Assessment (ODA) shall have the

responsibility in collaboration with the ___ Office of Preschool and Day Care, ___ Chief Financial

Officer (CFO) and ___ General Counsel (GC) for monitoring and assessing the Delegate's performance and compliance with results-based performance measures with respect to program, administrative, and financial management; the requirements as set forth in this Agreement; as described in the Delegate's proposal; as outlined in the Head Start Act; and in any other applicable regulations. All such monitoring and assessments shall be conducted in accordance with the procedures and criteria outlined in the ___ Monitoring and Assessment Policy and shall conform to the standards outlined therein; and shall embrace the criteria delineated in the ___ Request Refunding for FY'07 Head Start and Early Head Start funding.

In the exercise of this responsibility, the ___ Director, ODA, designates the ODA, Evaluation and Monitoring Unit staff and or the ___ Monitoring and Assessment Team in collaboration with the OPDC staff to assist in carrying out this function. The Delegate shall provide all reasonable assistance and facilities for the convenience of the ___ monitoring and assessment unit or team or OPDC staff in executing the performance assessment process. ___, through its authorized unit and or team or OPDC staff, has the right, at all reasonable times, to inspect or otherwise monitor and assess the work performed, or being performed and the premises in which said work is being performed. If any inspection or monitoring and assessment is made of the premises or the program of the Delegate, all such inspections and monitoring and assessments shall be performed in such a manner as will not unduly delay the work of the Delegate.

In accordance with ___'s Monitoring and Assessment Policy, ___ shall issue a written summarizing its findings. In the event that the monitoring reveals areas of concern, ___ shall provide written notification to the Delegate requesting additional information, responses, steps and/or a corrective action plan to be approved by ___. At a minimum, each corrective action plan must: identify the agency staff member responsible for addressing the areas of concern; the resources needed to correct the problem(s); and the time frame necessary to complete all corrective action items. During the period of corrective action, ___ shall continue to monitor the Delegate, as necessary, to ensure proper resolution of the findings and concerns. The Delegate must fully cooperate with ___ during this entire process.

SECTION SIX **COSTS AND PAYMENT REQUIREMENTS**

For the performance of this Agreement during the period **August 1, 2007 through July 31, 2008**, the Delegate shall be reimbursed by and or receive advances from ___ in a total amount not to exceed \$_____ for authorized expenses incurred pursuant to the budget attached hereto as **Appendix B** and made a part of this Agreement. ___ is not obligated to reimburse and or advance the Delegate for any program costs which exceed this amount. The total amount, however, is subject to adjustment by ___ if the period of operation is less than the period specified, or if a substantial change is made in the Scope of Services that affects this Agreement. The Delegate shall make the established nonfederal contribution toward the total cost of this Agreement in the amount of \$_____, pursuant to the nonfederal budget attached hereto as **Appendix B**. Program funds shall not be expended prior to the effective date of the Agreement or subsequent to the earlier of (1) the program year end date or (2) the Agreement termination date. Costs incurred shall only be as necessary to carry out the purposes and activities of the approved program. Such expenditures may not exceed the maximum limits set in the approved budget or those in a budget subsequently amended for the approved program. Expenses charged against program funds shall

be incurred in accordance with Title 2 C.F.R. Part 230 “Cost Principles for Non-Profit Organizations” (OMB Circular A-122); Title 2 C.F.R. Part 225 “Cost Principles of State and Local and Tribal Governments” (OMB Circular A-87); Title 45 C.F.R. 92; and Title 45,

Subtitle A, which is applicable to the Delegate and any other laws, regulations, Program Information (PIs) and Information Memorandums (IMs).

A. ___ shall reimburse the Delegate for authorized expenses incurred pursuant to the budget in **Appendix B** of this Agreement in accordance with the following method:

1. The Delegate shall submit to the ___ **Office of Finance and DOPDC**, not-later-than the **15th** business day of each month, a **certified** requisition for payment of expenses, inclusive of nonfederal project cost and authorized children with disabilities expenses, for the prior month on a form which ___ will supply for this purpose. The requisition for payment of expenses should cover the month prior to the one receding the month payment is requested (i.e. the request for advance payment for March should be accompanied by the expense report for January). **All expenses incurred for the approved program must be supported by fully executed contracts, purchase orders, requisitions, bills, or other evidence of obligation consistent with the Delegate’s established accounting policies and procedures.** The requisition shall state, for each budget expense category: the amount budgeted; expenses incurred during the preceding month; cumulative expenses and the balance remaining in the budget. The amount payable to the Delegate will be the Delegate’s cumulative allowable expenses, less the total amount previously paid to the Delegate pursuant to this Agreement.
2. ___ is under no obligation to reimburse the Delegate for these expenses until the requisition is accompanied by the monthly Program Information Report Summary and Quality Improvement Plan (QIP) Tracking Report in addition to the required quarterly and annual reports in SECTION FOUR Reporting Requirements above.
3. Payment in the form of advances may be made to the Delegate to support operations on or about the first of each month, at the discretion of ___, and ___n the submission of appropriate requisition forms by the Delegate **to the ___ Office of Finance and DOPDC.**
4. In accordance with the expense reporting schedule in item 1. above, the Delegate will report actual expenditures on the ___ Head Start Delegate Request for Reimbursement form using the existing budget line item format along with the back-up documentation that supports each line-item reimbursement request. **All expenses incurred for the approved program must be supported by fully executed contracts, purchase orders, requisitions, bills, or other evidence of obligation consistent with the Delegate’s established accounting policies and procedures. The reports must be received by the ___ Office of Finance and DOPDC prior to the next monthly advance. If the certified requisition for payment of expenses and supporting back-up documentation are not received within the aforementioned scheduled time, the ___ Office of Finance may withhold advance payments until such documentation is received.** The Delegate shall attach a copy of the applicable check or other back-up document utilized in satisfying federal and state withholding taxes, UI and FICA

liabilities for the prior month to the requisition for payment. In addition, the Delegate shall provide the Delegate's United States Department of Agriculture (USDA) audit results from the State agency within ten (10) business days from receipt of the State agency.

5. No reimbursement or advance payment by ___ or any other circumstances shall affect the allowability of costs as determined by the DHHS required annual audit pursuant to OMB Circular A – 133 “Audits of States, Local Governments, and Non-Profit Organizations” and OMB Circular A-133 Compliance Supplement for Head Start.
 6. It is emphasized that the expenses to be reported shall be on the same accounting basis, i.e., cash or accrued expenditure (accrual), as utilized in the Delegate accounting system.
 7. Any overpayment resulting from early termination or remaining at the natural expiration of this Agreement or extension(s) hereto shall be returned to ___ within sixty (60) days after the final audit report is received by the Delegate.
 8. Final payment under this Agreement is expressly made contingent upon (a) acceptance by ___ of a final written report on the program by the Delegate; (b) acceptance by ___ of an explanation for any questioned costs; and (c) execution by the Delegate of a final release discharging ___ of any claims arising under this Agreement.
- B. Unless otherwise required by Federal Statutes, payments for proper expenses incurred by the Delegate will not be withheld unless:
1. The Delegate has failed to comply with the reporting requirements in SECTION FOUR, Reporting Requirements of this Agreement, or
 2. ___ has suspended this Agreement in whole or in part because the Delegate has materially failed to comply with the terms of this Agreement, or
 3. The Delegate owes money to the United States and collection of the debt by withholding payments will not impair the accomplishment of the objectives of any program sponsored by the United States.
- C. The total amount to be reimbursed by ___, however, is subject to adjustment by ___ if the period of operation is less than the period specified, or if a substantial change is made in the Scope of Services which effects the Agreement.
- D. All requests for reimbursement from ___ for expenses incurred in the operation of the Delegate's program will initially be approved by the DOPDC. The DOPDC or the ___ Chief Financial Officer (CFO) may disapprove reimbursement requests not timely submitted by the Delegate within the required expense reporting schedule and or pending receipt of any required or requested supporting documentation or any report in SECTION FOUR, Reporting Requirements, and or required elsewhere in this Agreement.

SECTION SEVEN
COST CONTRIBUTION OR MATCHING

The Delegate shall contribute toward the total cost of this Agreement in accordance with the nonfederal budget set forth in **Appendix B**.

A. Definitions

1. Program costs are allowable costs incurred by the Delegate in accomplishing the objectives of a program during the program period, including allowable in-kind contributions made by third parties. Program costs are limited to allowable costs as provided for in 45 C.F.R. Part 74.
2. Cost sharing or matching. The value of third-party in-kind contributions and that portion of allowable program costs of a grant-supported program not borne by the Federal Government.
3. Cash contributions. The Delegate's cash outlay, including the outlay of money contributed to the agency by third parties, i.e., public agencies and institutions and by private organizations and individuals.
4. Third-party in-kind contribution. The value of non-cash contributions provided by the Delegate by other public agencies and institutions and by private organizations and individuals. Third-party-in-kind contributions may consist of charges for real property and equipment and the value of goods and services directly benefiting the program and specifically identifiable to it.

B. Composition of Non-Federal Share

1. Allowable costs satisfying matching or cost sharing requirements include:
 - a. Charges incurred by the Delegate as program costs, including non-cash items such as depreciation or use charges for Delegate owned property as determined in accordance with applicable cost principles and indirect costs in excess of those allowable as a charge to the grant;
 - b. Program costs financed with cash contributed or donated to the Delegate by non-federal third parties (or by the Federal government where Federal legislation so allows); and
 - c. Program costs represented by services and real or personal property donated to the Delegate by non-federal third parties (in-kind). Such costs are acceptable as part of the non-federal share when they are:
 - i. verifiable from Delegate records and show how the value placed on the third-party in-kind contribution was determined;
 - ii. not included as contributions for any other federally assisted program; and
 - iii. necessary and reasonable for proper and efficient accomplishment of program objectives.
2. Matching or costs expenses may not be financed by other federal funds or by non-federal funds that are applied to match other federal funds, except as may be specifically

authorized by Federal legislation. Costs must also be allowable under the applicable costs principles and must be necessary and reasonable for the proper and efficient accomplishment of program objectives. Allowable contributions to satisfy matching requirements may be included provided these services are in the same skill for which the employee is normally paid. If the services involve skills other than those for which the employee is normally paid, they should be valued according to the instructions in the preceding paragraph.

3. Donated real or tangible personal property (expendable and nonexpendable.)
 - a. Tangible personal property. Examples of tangible personal property may include office equipment, supplies, or workshop and classroom supplies. The amount to be allowed as matching when tangible personal property is donated (donor transfers title) to the Delegate shall be determined as if the Delegate has purchased the materials and had paid the fair market value at the time of the transfer. Donated nonexpendable property is subject to the same prior approval requirements as purchased nonexpendable property.
 - b. Donated real property (land and buildings). The value of donated real property (where donor transfers title) shall be determined as if the Delegate has purchased the property and had paid the fair market value of the property at the time of the transfer. The amount allowed for matching purposes will be a depreciation or use charge based on the property's fair market value.
 - c. Donated use of property. The amount which may be allowed as matching for property (real and tangible personal property) donated or use only (donor retains title) shall be determined as if the Delegate has rented the property and had paid the property's fair rental value.
 - d. Appraisal. The Delegate may be required to establish the value of real property through the use of a certified real property appraiser (or by a representative of the U. S. General Services Administration, if available) and the value or rate be certified by a responsible official of the Delegate.
4. Other Charges. Other necessary charges incurred specifically for the direct benefit of the program may be accepted as matching share provided that they are adequately supported and permissible under the law. Such charges must be reasonable and properly justified.

C. Record of Matching Contributions

1. The Delegate must maintain account records which show the amount and nature of matching contributions. Contributions shall be accounted for in the same manner as Federal grant funds. In-kind contributions shall be fairly valued and will be accepted to the extent that the items would otherwise constitute allowable costs. Records supporting in-kind contributions from third parties must include the following:
 - a. Documentation of the extent of volunteer services, supported by the same methods used by the Delegate for its employees; and
 - b. Documentation of the basis for determining the charges for personal services, material, equipment, buildings, and land.

2. Matching contribution records are subject to audit in the same manner and to the same extent as records dealing with the receipt and disposition of Federal grant funds

SECTION EIGHT
PROGRAM INCOME

- A. The Delegate is accountable to ___ for income generated by activities performed under this Agreement. All program income earned by the Delegate during the operating period of this Agreement may be used for allowable costs to expand the services in **Appendix A**. The full amount of program income shall be deducted from the total amount payable under this Agreement
- B. Program income means gross income earned by the Delegate from activities in which part or all of the cost is either borne as a direct cost by a grant or Agreement from ___ or counted as a direct cost towards meeting a cost sharing requirement of such grant or Agreement. It includes, but is not limited to the following:
 1. Income from services fees;
 2. Proceeds from the sale of property or other assets with an acquisition cost of less than \$1,000;
 3. Usage or rental fees;
 4. Royalties on patents and copyrights;
 5. Other income as defined by DHHS; and
 6. Interest income.
- C. Allowable Uses of Program Income:
 1. Program income received may be used for any service which the Delegate will provide with Head Start and Early Head Start grant funds.
 2. All program income must be used during the project year in which it is earned. It must be used in one of the following ways: (a) added to funds committed to the program and used to further eligible program objectives; (b) used to finance the non-Federal share of the program, if any; and (c) on a regular basis deducted as a cash resource from total allowable program costs for the purposes of determining net allowable cost.
 3. Program income must be deposited into an appropriate bank account on a regular basis.

SECTION NINE
FINANCIAL MANAGEMENT SYSTEM STANDARDS

The expenditures of all Head Start and Early Head Start program funds by the Delegate are required to be accounted for in accordance with proper accounting methods. The Delegate shall establish and maintain a consistent system of accounting and fiscal management to assure adequate internal controls that provide for timely, accurate, current and complete disclosure of financial information while providing for oversight and protection of federal funds that must meet the following minimum standards:

1. Records must be maintained which identify adequately the source and application of funds for grant supported activities. These records shall, among other things, contain information pertaining to authorizations, obligations, unobligated balances, assets, liabilities, outlays and income.
2. Effective control over and accountability for all grant award funds, property and other assets must be developed and maintained. The Delegate shall adequately safeguard all such property and shall assure that it is used solely for authorized purposes.
3. Obligations may not be incurred in a program unless the budget or forecast plan includes an appropriation authorizing the obligation and an unobligated balance remains in the appropriation sufficient to pay in the current fiscal year the sums obligated by the transaction for the current year.
4. The Delegate's finance officer or designee shall either approve or disapprove the necessary disbursement for bills, invoices, or other claims against the Delegate when presented for payment. The Delegate's finance officer shall establish procedures to assure compliance with this subsection.
5. The Delegate shall not pay a bill, invoice, salary, or other claim except by a check or draft from an official depository. However, a petty cash fund may be used to pay for infrequent, low-cost, and incidental expenses.
6. Separate general ledger accounts shall be established and maintained and identified by the number assigned to the program.
7. The accounting system must be designed to show in detail the Delegate's assets, liabilities, net assets, and actual and budgeted revenues, and expenditures, as established in the budget as originally adopted and subsequently amended.
8. Written cash management procedures must be implemented to minimize the time elapsing between the transfers of funds to the Delegate and reporting of expenses incurred, whenever cash is advanced by ____.
9. Written procedures must be designed, implemented and carefully followed in determining the allowability and allocability of eligible costs in accordance with the applicable cost principles prescribed in Title 2 C.F.R. Part 215 (OMB Circular A-110); Title 2 C.F.R. Part 225 (OMB Circular A- 87); or Title 2 C.C.R. Part 230 (OMB Circular A-122), which are applicable to the Delegate.
10. Accounting records must be supported by source documentation, such as cancelled check, paid bills, payrolls, etc. Each entry in the accounting records shall refer to the

document that supports the entry and documentation shall be filed in such a way that it can be readily located. All checks, payrolls, invoices, agreements, vouchers, orders or other accounting documents pertaining in whole or in part to this Agreement shall be clearly identified and readily accessible.

11. The accounting system shall contain an adequate means of internal controls and full, accurate reporting of financial information to safeguard assets, to provide separation of duties (i.e. segregation of duties), check the accuracy and reliability of accounting data, promote operational efficiency, and encourage adherence to prescribed management policies.
12. All checks or drafts on an official depository shall be signed by the Delegate's finance officer or a properly designated officer and countersigned by a member of the Board, designated for this purpose by the Board. The Board or Department shall designate the official depository (bank) and shall record such in its minutes. The Board or Department may waive the requirement of dual signatures, if the Board or Department determines that internal control procedures are adequate to waive the requirement.
13. All accounting records, supporting documents, statistical records, and other records pertinent to the Agreement are to be kept readily available for examination and or inspection by ___ and Federal personnel (or other appropriate persons) authorized to examine Head Start and Early Head Start grant funds.
14. The Delegate or a Delegate, as an agency of the _____ Government, shall secure the regularly scheduled or ongoing services of a qualified fiscal officer.
15. The Delegate shall provide a systematic method to assure timely and appropriate resolution of audit findings and recommendations.
16. If any member of the Department or Board or officer or employee shall conceal, falsify or refuse to deliver or divulge any books, records, or information with an attempt thereby to mislead the auditor or impede or interfere with the audit, this Agreement may be terminated and all funds received may be subject to repayment.
17. Obligations incurred by the Delegate shall be liquidated within 60 days following the close of the fiscal year in which the obligations were incurred.

It is expressly agreed and understood that the Delegate will be in default under this Agreement if it fails to maintain a system of accounting and internal control in strict compliance with the standards or regulations required by ___, or DHHS.

SECTION TEN **PROGRAMMATIC CHANGES AND BUDGET REVISIONS**

- A. The Delegate shall provide **written notification** to the ___Deputy Officer for Preschool and Day Care (DOPDC), prior to or within 24 hours of any **changes** in the following: key staff positions (i.e. Director, COO, CFO, Coordinators); address, e-mail, and/or telephone number of the Delegate; and name and/or address of the person to whom notices are to be sent.

- B. The Delegate shall **request prior written approval** from the ___ DOPDC in order to make changes to the program scope, objectives, or outcomes set forth in the attached Appendix A.
- C. Budget revisions
1. The Delegate shall **request prior written approval** from the ___ DOPDC **and submit a copy of the written request to the ___ Office of Finance** in order to increase any cost category in the last approved budget by more than five (5) % or \$10,000, whichever is lower; except that the Delegate need not receive prior written approval for an increase in any cost category in the last approved budget that is lower than \$1,000. An increase to a cost category must be off set by a decrease of equal value to another cost category.
 2. The Delegate shall provide **written notification** to the ___ DOPDC, **with a copy to the ___ Office of Finance** regarding all other increases in cost categories in the last approved budget that do not meet the standards set forth in the prior paragraph. An increase to a cost category must be off set by a decrease of equal value to another cost category. Such notification must be included with the request for reimbursement.
 3. The Delegate shall **request prior written approval** from the ___ DOPDC **and submit a copy of the written request to the ___ Office of Finance** in order to purchase any item(s) of personal property (property of any kind except real property) with a unit price of more than \$5,000.
 4. The Delegate shall **request prior written approval** from the ___ DOPDC **and submit a copy the written request to the ___ Office of Finance** for all consultant agreements which include a pay rate in excess of \$100 per hour.
 5. The Delegate shall provide **written notification** to the ___ DOPDC **with a copy to the ___ Office of Finance** promptly whenever the Delegate projects that it will exceed its authorized budget set forth in the attached **Appendix B**.
- D. Within thirty (30) days from the date of receipt of a request for approval, the ___ DOPDC shall review the request and notify the Delegate of the decision. If the request for approval is still under consideration at the end of thirty (30) days, the ___ DOPDC shall inform the Delegate in writing as to when to expect the decision. The decision shall be effective only if incorporated in a written amendment to this Agreement. Failure to agree on the terms of a change or a revision shall be a dispute concerning a question of fact within the meaning of SECTION NINETEEN, Disputes.

SECTION ELEVEN **AUDIT PROVISIONS**

- A. It is mutually agreed by and between ___ and the Delegate that the Delegate shall make or cause to be made an independent annual audit of the Delegate's financial statements for the **2007-08** program year covered under this Agreement, in accordance with the Single Audit Act Amendments of 1996 (31 U.S.C. §§7501-7507) and revised Office of Management and Budget Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations", if

applicable, and OMB Circular A-133 Compliance Supplement for Head Start. The Delegate shall provide ___ with two (2) copies of the Delegate's board approved or government issued audited financial statement, OMB A-133 report, if applicable, and management letters by no later than five (5) months after the end of the Delegate's fiscal year.

- B. ___ shall issue a management decision on the Delegate's audit findings within six (6) months after ___'s receipt of the Delegate's audit report. In the event that ___ is not fully satisfied with the Delegate's audit, ___ shall provide written notification to the Delegate requesting additional information, responses, steps and/or a corrective action plan to be approved by ___. During the period of corrective action, ___ shall continue to monitor the Delegate, as necessary, to ensure proper resolution of the findings and concerns. The Delegate must fully cooperate with ___ during this entire process.
- C. The Delegate's financial records, including audited financial statements, tax returns and any management letters, must be available for review by ___ auditors on an annual basis when requested. Where the Delegate receives contributions from sources other than ___, ___ shall have the right to inspect and audit the pertinent books and records of the Delegate regarding transactions related to such other contributions.
- D. In the event that the Delegate fails to provide ___ with the independent audit of the Delegate's financial statements for **2007-08** within the proscribed time period stated above, or fails to fully cooperate in the process set forth above, ___ shall suspend payment under this Agreement in accordance with SECTION EIGHTEEN, Suspension and Termination Procedures, below, and may proceed with termination, if applicable.
- E. At any time or times before final payment and three (3) years thereafter, ___ may have the Delegate's expenditure statements audited. Whenever an audit shows that an expenditure not allowable under this Agreement has been charged to this Agreement or that the Delegate has otherwise failed to discharge its obligation to account for the expenditure of grant funds, ___ shall disallow the expenditure of the funds and repayments shall be subject to the provisions of the DHHS Head Start Regulations, which are incorporated into this Agreement by reference. Any expenditure disallowed by audit or other ___ or DHHS review shall be subject to repayment by the Delegate to ___.

SECTION TWELVE **PROCUREMENT**

- A. The Delegate shall establish written procurement procedures in accordance with the "Procurement Standards" as found in 45 C.F.R. §§ 74.40 – 74.48 or 45 C.F.R. § 92.36, which ever is applicable to the Delegate, and adhere to the standards set forth therein. However, the standards do not relieve the Delegate of the responsibilities arising under this Agreement.
- B. The Delegate is the responsible authority, without recourse to ___ or DCDHS regarding the settlement and satisfaction of all contractual and administrative issues arising out of procurement entered into, in support of a grant or other agreement. This includes disputes, claims, protests of award, source evaluation or other matters of a contractual nature. Matters concerning violation of law are to be referred to such local, State and Federal authorities as may have proper jurisdiction.

- C. All procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, full and open competition. The Delegate shall obtain, where practicable, at least three bids or proposals for all purchases of goods or services of \$5000 or more bought from funds provided pursuant to this Agreement.
- D. No employee, officer or agent of the Delegate shall participate in the selection, award or administration of a contract to be paid in whole or in part with funds provided under this Agreement, when the employee, officer or agent or any member of his/her immediate family or his or her partner, or an organization with which employs or is about to employ any of the parties indicated herein, has a financial or other interest in the organization, firm or other entity seeking or selected for such contract. The term "immediate family" includes husband, wife, father, mother, brother, sister, son, daughter, mother-in-law, father-in-law, son-in-law, daughter-in-law, sister-in-law, and brother-in-law. The officers, employees and agents of the Delegate shall neither solicit nor accept gratuities, favors or anything of monetary value from Delegates, or parties to contracts. However, the Delegate may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value.

SECTION THIRTEEN
PROPERTY MANAGEMENT

- A. The Delegate's property management standards for expendable personal property shall include the following procedural requirements:
 - 1. Property records shall be maintained accurately and provide the following information:
 - a. A description of the property;
 - b. Manufacturer's serial number or other identification number;
 - c. Acquisition data and cost;
 - d. Source of the property;
 - e. Percentage of Federal funds used in the acquisition of the property;
 - f. Location, use, and condition of the property; and
 - g. Ultimate disposition data including sales price or the method used to determine current fair market value if the Delegate reimburses ____.
 - 2. Physical inventory of property shall be taken and the results reconciled with the property records at least once every two years to verify the existence, current utilization, and continued need for the property.
 - 3. A control system shall be in effect to insure adequate safeguards to prevent loss, damage, or theft to the property. Any loss, damage, or theft of nonexpendable personal property shall be investigated and fully documented.
 - 4. Adequate maintenance procedures shall be implemented to keep the property in good condition.
 - 5. Proper sales procedures shall be established for unneeded property which includes provisions for price competitive auctions to the extent practicable.

- B. The Delegate shall adhere to all other terms and conditions set forth in 45 C.F.R. §§ 74.30 – 74.37 (Property Standards) or 45 C.F.R. § 92.32 (Equipment), which ever is applicable to the Delegate. The Delegate shall submit to ___ a property inventory 60 days prior to the end of the operating period of this Agreement or within 45 days after termination of this Agreement. However, should the Delegate be scheduled for funding renewal by ___ at the end of operating period, the inventory should be submitted as part of the funding proposal.
- C. All property purchased with funds under this Agreement with a unit value of \$5,000 or more shall be labeled. upon the termination of this Agreement and at the direction of ___, all property purchased with funds supplied by ___ shall be returned to ___.

SECTION FOURTEEN **RECORDS, ACCESS AND RETENTION**

- A. The Delegate shall maintain time and attendance records for personnel receiving compensation under this Agreement. These records will be prepared per pay period and each person receiving compensation under this Agreement shall sign the document recording the time he/she has spent in performing services called for by this Agreement. He/she and his/her supervisor shall sign these time records and thereby attest to their accuracy.
- B. All Delegate financial records, supporting documents, program records, reports, books or other documents relating to this Agreement, inclusive of computerized records, shall be retained and made available for inspection by ___, person or entity providing funding pursuant to the grant or Agreement referenced in the Recitals Section of this Agreement, by the Comptroller General of the United States, General Accounting Office and by such other persons or organizations as may be designated by ___ for a period of **three (3) years** from the date of submission of the final expenditure report and close-out under this Agreement in accordance with 45 C.F.R. § 74.53 or 45 C.F.R. § 92.42. If any litigation claim or audit is started before the expiration of the **three (3) year** period the records shall be retained until all litigation, claims or audit findings involving the records have been resolved and final action taken. Records for non-expendable equipment acquired with Agreement funds shall be retained for **three (3) years** after final disposition or replacement or transfer at the direction of ___.

SECTION FIFTEEN **INSURANCE**

The Delegate, excluding the Delegate as an agency of the _____ Government, shall obtain prior to this Agreement and keep in force during the operating period of this Agreement such Employer's Liability, Worker's Compensation, Public Liability, Student Accident and Property Damage insurance as shall protect ___ and the Delegate from claims for damages which may arise by reason of any act or omission of the Delegate, its officers, agents, servants or any person directly or any person directly or indirectly employed by or acting on behalf of the Delegate in connection with the performance of this Agreement.

Within ten (10) days of execution of this Agreement, the Delegate shall provide ___ with a certificate of insurance issued by its insurance company evidencing the coverage required under this Section. In addition, all insurance certificates provided by the Delegate, except Worker's Compensation Insurance, shall indicate that ___ is an additional insured and will provide for at least thirty (30) days

written notice to ___ if coverage is reduced, expires or is canceled. In the event of any other amendments or changes in coverage, the Delegate shall notify ___ of such amendment or change within ten (10) business days thereof. All insurance shall be written with responsible companies licensed by the District of Columbia.

The Delegate, as an agency of the _____ Government, is self-insured and provides protection for risks or liabilities arising from personal or bodily injury and property damage. Its insurance shall cover the staff and the agency for accidents to children, volunteers, parents and visitors on the Delegate's premises. If any harm is done to a staff person the relief sought should be under ___ Official Code § _____.

SECTION SIXTEEN BONDING

The Delegate, excluding the Delegate as an agency of the _____ Government, shall obtain and maintain, at all times during the term of this Agreement, a fidelity bond/employee dishonesty coverage covering the activities of each person authorized by the Delegate to sign or countersign checks, receive, handle or disburse monies provided under this Agreement equaling the average of the funds to be expended each month but not less than \$25,000. The bond shall be issued by an insurer duly licensed to transact business in the _____ and shall provide that payment made there under for any loss sustained either by the Delegate or ___ or both through any fraudulent or dishonest act by one or more of the bonded persons shall be payable to ___.

SECTION SEVENTEEN CLOSE-OUT PROCEDURES

- A. ___ shall close-out this Agreement at the end of the operating period, when it has been determined that all applicable administrative actions and all required work of the Delegate has been completed.
- B. Upon termination or close-out of this Agreement, the Delegate shall provide an accounting of funds received, expended and expenses incurred and accrued, obligated and remaining under this Agreement to the ___ CFO and promptly pay outstanding obligations. The Delegate shall liquidate all obligations incurred under this Agreement not later than forty-five (45) days after the end of the operating period. Any unobligated balance from a prior budget period does not authorize the Delegate to obligate funds in excess of the total Delegate approved budget reflected in SECTION SIX, Costs and Payment Requirements for the current budget period.
- C. Within forty-five (45) days after the expiration or termination of this Agreement, the Delegate shall submit all financial, performance, and other reports required as a condition of this Agreement. The ___ CFO may extend this deadline upon request by the Delegate.
- D. ___ shall make prompt payment to the Delegate for allowable reimbursable costs.
- E. The Delegate shall immediately refund to ___ any balance of unobligated cash advanced that is not authorized to be retained for use on other agreements.
- F. The close-out of this Agreement shall not affect the following: (1) ___'s authority to disallow costs and recover funds on the basis of a later audit or other review; (2) the Delegate's obligation

to return any funds due as a result of later refunds, correction or other transactions; or (3) the Delegate's duty under SECTION FOURTEEN, Records, Access, and Retention, to retain and make records available to ____, or DHHS for review.

- G. It is understood and agreed that payment under this Agreement or any extension hereof, after **July 31, 2008**, is contingent upon the execution by the Delegate of ____'s Final Release form for the **2007-08** Program Year and the Delegate's fulfillment of all of its obligations there under. The Delegate shall also submit to ____ explanations of all questioned costs under this Agreement for Program Year **2007-08** within sixty (60) days of receipt of the questions raised about the Delegate's program by the auditors.
- H. In the event the Delegate fails to satisfy these requirements, ____ shall have the right to do any of the following:
1. Withhold present or future payments, including reimbursed expenditures questioned by the auditors under previous Agreements for which the Delegate has not provided a satisfactory explanation, until the obligations are satisfied;
 2. Terminate this Agreement in accordance with SECTION EIGHTEEN, Suspension and Termination Procedures, hereof; and
 3. Off-set funds owed under this Agreement.

SECTION EIGHTEEN SUSPENSION AND TERMINATION PROCEDURES

____ may, by written notice of default to the Delegate, suspend this Agreement in whole or in part; or terminate this Agreement for cause in whole or in part; or take any other remedies that may be legally available if for any reason ____ determines, in its sole discretion, that the Delegate materially fails to perform or comply with the terms and conditions of this Agreement, as contained herein, so as to endanger provision of the services to the community and does not correct such failure within a period of ten (10) days (or such longer period as ____ may authorize in writing) after receipt of written notice from ____ specifying such failure, any corrective action required of the Delegate and the effective date.

- A. Suspension
1. ____ may suspend the Delegate effective immediately if a delayed effective date would be unreasonable considering ____'s responsibilities to protect ____'s, interest and the Federal funds.
 2. The suspension shall remain in effect until the Delegate has taken corrective action satisfactory to ____, or given satisfactory evidence that corrective action will be taken or until ____ terminates this Agreement.
 3. After receipt of Notice of Suspension, and except as directed by ____, the Delegate shall immediately stop work as specified in the notice, and incur no further expenses or obligations.

4. New obligations incurred by the Delegate during the suspension period will be unallowable unless ___ expressly authorizes them in the Notice of Suspension or a subsequent amendment. Necessary and otherwise allowable costs which the Delegate could not reasonably avoid during the suspension period will be allowed if they result from obligations properly incurred by the Delegate before the effective date of the suspension and not in anticipation of suspension or termination. Appropriate adjustments to payments under the suspended Agreement will be made either by withholding subsequent payments or by not allowing the Delegate credit for disbursements made in payment of unauthorized obligations incurred during the suspension period.

B. Termination

1. A Notice of Termination shall state the reasons for the termination and the effective date prior to expiration of the operating period of this Agreement. After receipt of Notice of Termination, and except as directed by ___, the Delegate shall immediately proceed to stop work as specified in the notice, and incur no further expenses or obligations.
2. ___ may terminate the Delegate effective immediately when the failure to comply with the terms of this Agreement is so serious that immediate termination is in ___'s best interest and to protect Federal funds.
3. In the event ___ terminates this Agreement in whole or in part as provided in this Section, the Delegate shall be liable to ___ for any excess costs for similar services, provided that the Delegate shall continue the performance of this Agreement to the extent not terminated under the provisions of this Section.
4. In the event that grant funding under which this Agreement is made, is terminated or reduced by DHHS, ___ shall have the right to terminate or reduce the Agreement dollar amount of this Agreement by giving the Delegate written notice of such termination and specifying the effective date at least fifteen (15) days prior to the effective date of the termination.
5. This Agreement may be terminated at the request of the Delegate upon written notification to ___ setting forth the reasons for such termination, the effective date, and in the case of partial termination, the portion to be terminated. However, if ___ determines in the case of partial termination that the reduced or modified portion of this Agreement will not accomplish the purposes for which this Agreement was made, ___ may terminate this Agreement in its entirety. ___ may require the Delegate to ensure that adequate arrangements have been made for the transfer of the Delegate activities to another entity suitable to ___.
6. If the Delegate is unable or unwilling to comply with additional conditions as may be lawfully applied by DHHS to the grant to ___, the Delegate shall terminate this Agreement by giving reasonable written notice to ___, signifying the effective date thereof. In such event, ___ may require the Delegate to ensure that adequate arrangements have been made for the transfer of the Delegate activities to another entity suitable to ___.

7. All property, reports, studies, surveys, plans and other documents and material prepared or assembled by the Delegate pursuant to this Agreement through the effective date of termination shall become the property of ____.
8. The Delegate shall be entitled to receive just and equitable compensation for any satisfactory work completed pursuant to this Agreement through the effective date of termination. Notwithstanding such provision, the Delegate shall not be relieved of liability to ____ for such damages sustained by ____ by virtue of any breach of this Agreement by the Delegate, and ____ may withhold any payments to the Delegate for the purpose of off-set until such time as the exact amount of damages due from the Delegate is determined.

SECTION NINETEEN

DISPUTES

- A. If the Delegate has a dispute regarding a question of fact arising under this Agreement, the Delegate may submit a request for resolution to the ____ DOPDC. The request must be in writing and must include the specific issue(s) that are in dispute, the relevant facts and documentation, and whether the Delegate wishes to meet informally with the ____ DOPDC regarding the dispute. The ____ DOPDC shall contact the Delegate regarding the date, time and place for the informal meeting. Within thirty (30) days from receipt of the request for resolution or the informal meeting, whichever is later, the ____ DOPDC or his/her duly authorized representative shall issue a written decision and mail or otherwise furnish the decision to the Delegate. The decision of the ____ DOPDC or his/her duly authorized representative shall be final unless the Delegate mails or otherwise furnishes a written appeal to the ____ Chief Executive Officer (CEO) within fifteen (15) days from the date the Delegate received the decision from the ____ DOPDC or his/her duly authorized representative. The Delegate's written appeal must include the issues the Delegate disputes from the decision of the ____ DOPDC or his/her duly authorized representative, the decision of the ____ DOPDC or his/her duly authorized representative, the relevant facts and documentation, and whether the Delegate wishes to meet informally with the ____ CEO regarding the appeal. The ____ CEO shall contact the Delegate regarding the date, time and place for the informal meeting. Within thirty (30) days from receipt of the appeal or the informal meeting, whichever is later, the ____ CEO or his/her duly authorized representative shall issue a written decision and mail or otherwise furnish it to the Delegate. The decision of the ____ CEO or his/her duly authorized representative shall be final and conclusive unless otherwise determined by a court of competent jurisdiction.
- B. The Delegate shall preceede diligently with the performance of the Agreement in accordance with the ____ DOPDC's decision pending a final decision from the ____ CEO or his/her duly authorized representative.
- C. This Disputes Section does not preclude consideration of law questions in connection with decisions provided for in this paragraph, provided that nothing in this Agreement shall be construed as making final the decision of any administrative official representative, or board on a question of law.

SECTION TWENTY

GOVERNANCE AND CORPORATE VIABILITY

- A. The Delegate, excluding a Delegate as an agency of the _____ Government, must be in compliance with its bylaws. The Delegate's by-laws must contain, at a minimum, clear provisions covering: (1) election procedures; (2) membership requirements; (3) voting rights; (4) duties, liabilities and limitations of Board members; (5) notification of Board members regarding meetings; (6) committees; (7) duties and responsibilities of officers; (8) selection and removal of officers and Board members; and (9) filling of vacancies.
- B. The Delegate, excluding a Delegate as an agency of the _____ Government, shall ensure that the minutes are taken at each meeting of its Board and its Committee. These minutes shall contain at least the following information: (1) a list of members present or absent from the meeting; (2) an identification of all motions duly acted upon during the meeting and the person offering the motion and the second, if any; (3) a brief description of the discussion of each such motion; (4) a statement of the exact motion as passed or defeated; and (5) an identification of any other pertinent matters considered.
- The minutes, **inclusive of a copy of proper notice**, of each meeting of the Board or Committee shall be approved or amended, at the next subsequent meeting of such Board and forwarded along with the Delegate's quarterly report to the ___ DOPDC. Said minutes shall bear the signature of the Secretary of the Board, certifying their accuracy.
- C. The Delegate, excluding a Delegate as an agency of the _____ Government, shall hold an annual Board meeting each year, and provide the Board members and residents of its service area with thirty (30) days prior written notice thereof. Such notice will include an identification of the time, place, and purpose of the meeting.
- D. **The Delegate shall be financially viable.**

SECTION TWENTY-ONE **COVENANT AGAINST CONTINGENT FEES**

The Delegate warrants that no person or selling agency or other organization has been employed or retained to solicit or secure this Agreement by an agreement or understanding or received a commission, percentage, brokerage or contingent fee. For breach or violation of this warrant, ___ shall have the right to annul this Agreement without liability, or in its discretion, to deduct from the compensation, or otherwise recover, the full amount of such commission, percentage brokerage or contingent fee.

SECTION TWENTY-TWO **CONFLICT OF INTEREST**

The Delegate, its directors, officers, members, partners, employees or agents represent and warrant that they do not hold nor shall they acquire any interest, directly or indirectly, which would or may create the potential for a conflict of interest in any manner or interfere with the Delegate's performance of the services herein described.

The Delegate's employees and members of their immediate families, board members and

members of their immediate families, and members of any board or policy or making body of such agency and their immediate families, are prohibited from accepting gifts, money gratuities or favors:

1. from persons receiving benefits or services under any program financed in whole or in part with funds payable under this Agreement;
2. from any persons or agency performing services or potential services under Agreement; and
3. from persons who are otherwise in a position to benefit from the actions of any employee or board member.

SECTION TWENTY-THREE
NEPOTISM

The Delegate is prohibited from employing a person whose employment is supported by ___ funds or by contribution of the non-federal share in the event that the person would:

1. Hold a job while he/she or a member of his/her immediate family serves on a board or committee of the Delegate if that board or committee has authority to order personnel actions affecting his/her job;
2. Hold a job over which a member of his/her immediate family exercises supervisory authority; or
3. Hold a job while either he/she or a member of his/her immediate family serves on a board or committee which, either by rule or by practice, regularly nominates, recommends, or screens candidates for the agency or program.
4. Immediate family shall include any of the following persons:

Husband	Wife
Father	Father-in-law
Mother	Mother-in-law
Brother	Brother-in-law
Sister	Sister-in-law
Son	Son-in-law
Daughter	Daughter-in-law

SECTION TWENTY-FOUR
POLITICAL ACTIVITY PROHIBITED

None of the funds, material, property or services contributed by ___ or the Delegate under this Agreement shall be used in the performance of this Agreement for any partisan political activity, or to further the election or defeat of any candidate for public office. The Delegate shall ensure that it will comply with the Hatch Act (42 U.S.C. § 9918(b)(1) and 5 U.S.C. § 1501 et seq.).

SECTION TWENTY-FIVE

RELIGIOUS ACTIVITY PROHIBITED

There shall be no religious worship, instruction or proselytization as part of or in connection with the performance of this Agreement.

SECTION TWENTY-SIX ASSIGNMENT OF INTEREST

The Delegate shall not assign or transfer any interest in this Agreement (whether by assignment or novation) without the prior written approval of ____, provided, however, that claims for money due or to become due to the Delegate from ____ under this Agreement may be assigned to a bank, trust company, or other financial institutions or to a Trustee in Bankruptcy, without such approval. Written notice of any such assignment or transfer shall be furnished promptly to _____. Any breach hereof shall be void and vest no right against ____ in a third party.

SECTION TWENTY-SEVEN SUB-AGREEMENTS

The Delegate shall not enter into any Sub-Agreement for any of the work contemplated under this Agreement and which is described in the attached Scope of Services Appendix A without prior written approval by the ____ CEO.

SECTION TWENTY-EIGHT OWNERSHIP AND CONFIDENTIALITY OF WORK PRODUCT

The making of payments, including partial payments, by ____ to the Delegate under this Agreement shall vest in ____ the title and right to take possession of all reports, studies, surveys, plans, memoranda, and other papers, documents, and materials prepared or assembled by the Delegate under this Agreement up to the time of such payment, and ____ shall have the right to use or allow others to use the same for any purpose without other or further compensation to the Delegate or to any other person. **The Delegate shall maintain confidential client and applicant files and shall provide access to these files only to persons properly authorized. The Delegate shall observe and abide by all applicable State and Federal statutes and regulations regarding use or disclosure of information including, but not limited to, information concerning applicants for and recipients of Agreement services.** The Delegate agrees further that none of the above listed materials prepared or assembled pursuant to this Agreement shall be made available to any individual or organization except as expressly authorized by ____.

SECTION TWENTY-NINE PUBLICATION AND PUBLICITY

The Delegate, within the limits imposed by SECTION TWENTY-EIGHT above, may publish results of its function and participation in the approved program without review by ____ provided that such publication acknowledges that the program is supported by funds granted by DHHS through ____, and that five copies of each such publication are furnished to the funding agency and ____.

SECTION THIRTY COPYRIGHTS AND PATENTS

- A. If this Agreement results in a book or other copyrightable material, ___ and the funding agency reserve a royalty-free, nonexclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, all copyrighted material and all material that can be copyrighted resulting from this Agreement.
- B. Any discovery or invention arising out of or developed in the course of work aided by this Agreement shall be promptly and fully reported to ___ and the funding agency for determination as to whether patent production on such invention or discovery shall be sought and how the rights in the invention or discovery, including rights under any patent issued thereon, shall be disposed of and administered, in order to protect the public interest.

SECTION THIRTY-ONE
COMPLIANCE AND ASSURANCES

- A. The Delegate shall ensure that all funds awarded pursuant to this Agreement shall be expended for the purposes and activities set forth in the Head Start Act, as amended, 42 U.S.C. § 9801 et seq. and applicable regulations.
- B. The Delegate shall make available information, documents, books, papers, records, correspondence, and any other materials relating to the program under this Agreement, pursuant to the Freedom of Information Act, 5 U.S.C. § 552. However, the Delegate is not required to disclose those types of information or documents that are exempt from disclosure.
- C. The Delegate certifies that neither it nor its principles are presently debarred, suspended, proposed debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency as published in the General Services Administration's "List of Partied Excluded from Federal Procurement or No procurement Programs" pursuant to 28 C.F.R. § 67.510, as required by Order 12549 and 12689, Debarment and Suspension. See also 45 C.F.R. Part 76 (Government wide Debarment and Suspension) (DHHS).
- D. The Delegate who receives amounts in excess of \$100,000 in Federal funds agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, 42 U.S.C. § 7401 et seq. and the Federal Water Pollution Control Act, as amended 33 U.S.C. § 1251 et seq.
- E. The Delegate who applied for an award of more than \$100,000 agrees to file a certification that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any Federal agency, a member of Congress, or an employee of a member of Congress in connection with obtaining any Federal Agreement, grant or any other award covered by 31 U.S.C. § 1352 (Byrd Anti-Lobbying Amendment). See also 45 C.F.R. Part 93 (New Restrictions on Lobbying) (DHHS).
- F. The Delegate agrees to comply with the Drug-Free Workplace Act of 1988, 41 U.S.C. § 701 et seq., as amended and the regulations at 45 C.F.R. Part 82. Pursuant to those laws and regulations, the Delegate agrees to maintain a drug-free workplace, publish a drug-free workplace statement, establish a drug-free awareness program for your employees, take action concerning employees

who are convicted of violating drug statutes in the workplace, and identify all known workplaces under your Federal awards.

- G. The Delegate agrees to comply with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.01 et seq. The Delegate will not discriminate on the basis of race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business in employment, in places of public accommodation, resort or amusement, in educational institutions, in public service, and in housing and commercial space accommodations.
- H. The Delegate assures compliance with the DHHS policy for the “Protection of Human Subjects”, 45 C.F.R. Part 46.
- I. The Delegate agrees to comply with all Federal and D.C. laws applicable to organizations that conduct business in the District of Columbia.

SECTION THIRTY-ONE
DOCUMENTS, LAWS, AND REGULATIONS
INCORPORATED BY REFERENCE

This Agreement is subject to all of the applicable Head Start and Early Head Start regulations, guidelines, or other actions which may be adopted by the U. S. Department of Health and Human Services (DHHS), or ___ pursuant to those requirements. Also, the Agreement incorporates all laws applicable to non-profit organizations that conduct business in the District of Columbia.

In addition, the following documents, laws, and regulations are hereby incorporated by reference in this Agreement:

- 1. The Request for Refunding (RFR).
- 2. The Delegate’s approved RFR/Proposal and Budget (including all standard forms, assurances, certifications and other supporting documents).
- 3. Head Start Act, and applicable regulations, including but not limited to 45 C.F.R. Parts 1301, 1302, 1303, 1304, 1305, 1306, 1308, 1309, 1310 and 1311 and Program Guidance for Parts 1304 and 1308.
- 4. Single Audit Act Amendments of 1996, 31 U.S.C. § 7501 et seq., and applicable regulations 45 C.F.R. § 74.26.
- 5. Office of Management and Budget Circular No. A-110 – “Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations”. See 2 C.F.R. Part 215 and 45 C.F.R. Part 74.
- 6. Office of Management and Budget Circular No. A-122 - “Cost Principles for Nonprofit Organizations”. See 2 C.F.R. Part 230 and also Title 45 C.F.R. Part 74

7. Office of Management and Budget Circular No. A-102 “Grants and Cooperative Agreements with State and Local Governments”. See also 45 C.F.R. Part 92.
8. Office of Management and Budget Circular No. A-87 “Cost Principles for State, Local, and Indian Tribal Governments. See 2 C.F.R. Part 225 and also 45 C.F.R. Part 92.
9. Office of Management and Budget Circular No. A-133, “Audits of States, Local Governments, and Non-Profit Organizations” and OMB Circular A-133 Compliance Supplement for Head Start.
10. The D.C. Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.01 et seq
11. Drug-Free Workplace Act of 1988, 41 U.S.C. § 701 et seq., as amended and the regulations at 45 C.F.R. Part 82 (Government wide Requirements for Drug-Free Workplace (DHHS).
12. Pro-Children Act of 1994, 20 U.C.S. § 6081 et seq. (Smoke Free Workplace).
13. Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d et seq., as amended, and applicable regulations at 45 C.F.R. Part 80 (Nondiscrimination Under Programs Receiving Federal Assistance Through the Department of Health and Human Services Effectuation of Title VI of the Civil Rights Act of 1964)(DHHS).
14. Equal Employment Opportunity, Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e et seq., and applicable regulations.
15. Equal Pay Act of 1963, 29 U.S.C. § 206(d), and applicable regulations.
16. Rehabilitation Act of 1973, Pub. L. 93-112, as amended by the Rehabilitation Act of 1974, Pub. L. 93-516, 29 U.S.C. § 794 (Section 504) and the applicable regulations at 45 C.F.R. Part 84 (Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving Federal Financial Assistance) (DHHS).
17. Title IX of the Education Amendments of 1972, Pub. L. 92-318, as amended by Section 3 of Pub. L. 93-568, 20 U.S.C. §§ 1681 – 1688, and the applicable regulations at 45 C.F.R. Part 86 (Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving or Benefiting from Federal Financial Assistance) (DHHS).
18. The Age Discrimination in Employment Act of 1967, 29 U.S.C. § 621 et seq., and applicable regulations.
19. The Age Discrimination Act of 1975, 42 U.S.C. § 6101 et seq., and applicable regulations at 45 C.F.R. Part 90 (Nondiscrimination on the Basis of Age in Programs and Activities Receiving Federal Financial Assistance) and Part 91 (Nondiscrimination on the Basis of Age in HHS Programs or Activities Receiving Federal Financial Assistance) (DHHS).
20. Equal Treatment for Faith-Based Organizations, 5 U.S.C. § 301, and applicable

regulations at 45 C.F.R. Part 87 (Equal Treatment for Faith-Based Organization) (DHHS).

21. Hatch Act, 42 U.S.C. § 9918(b) (1) and 5 U.S.C. § 1501 et seq.

SECTION THIRTY-TWO **RELATIONSHIP OF THE PARTIES**

The Delegate's relationship to ___ for all purposes hereunder is that of an independent party and nothing herein and no circumstances created hereunder shall be construed to imply or create any other relationship between the Delegate and ___ for any purpose whatsoever.

SECTION THIRTY-THREE **LIMITATION OF LIABILITY AND NON-LIABILITY OF**

The Delegate hereby expressly agrees and covenants that it will hold and save harmless and indemnify ___, **its officers, directors, agents, members, partners, servants and employees** from liability of any nature or of any kind, in connection with the services to be performed hereunder, arising out of any act or omission of the Delegate, **its officers, directors, agents, members, partners, servants, employees**, or of any employees of agents of the Delegate.

All personnel of the Delegate shall be within the employ of the Delegate who alone shall be responsible for their work, direction and compensation. This Agreement does not impose any liability or duty on ___ for the acts, omissions, liabilities or obligations of the Delegate or its subgrantees or any person, firm, company, agency, association, corporation, or organization engaged by them as expert, consultant, independent Delegate, specialist, trainee, employee, servant, or agent, or for taxes of any nature including, but not limited to unemployment insurance, worker's compensation, disability benefits, or social security, or except as specifically provided in this Agreement to any persons, firm or corporation. Without limiting the foregoing, ___ shall not be liable for any payment made or obligation incurred in connection with the suspension or termination of any employee or vendor by the Delegate.

SECTION THIRTY-FOUR **LAWSUITS**

The Delegate agrees to report in writing the initiation by or against the Delegate of any legal proceedings related to or affecting this Agreement the date the Delegate learns of such action or proceeding.

SECTION THIRTY-FIVE **CHOICE OF LAW**

___ and the Delegate mutually agree and so designate the courts of the _____ as the appropriate forum for litigation of any matter or dispute arising from the terms and conditions of this Agreement. It is further agreed that the _____ shall maintain jurisdiction over ___ and the Delegate in any such action that arises from this Agreement.

**SECTION THIRTY-SIX
WAIVER AND SEVERABILITY**

The waiver of any breach of this Agreement shall not constitute a waiver of any subsequent breach thereof, or a waiver of the terms of this Agreement. This Agreement shall be deemed severable and the invalidity or unenforceability of any provision shall not affect the enforceability of any other provision thereof.

**SECTION THIRTY-SEVEN
MODIFICATIONS AND AMENDMENTS**

___ may, at any time, by written notice make changes in this Agreement that are prospective in nature. If such changes cause an increase or decrease in the cost of performance, or in the time required for performance, an equitable adjustment shall be made and the Agreement modified in writing accordingly. Claims for adjustment by the Delegate must be asserted in writing and an amount stated within ten (10) days from the date of the written notice of the change. If ___ determines that the facts justify such action during the operating period of the performance, such equitable adjustments may be made by ___ any time prior to the date of final payment under this Agreement. Failure to agree on the terms of any equitable adjustment shall be a dispute concerning a question of fact within the meaning of the SECTION NINETEEN, Disputes.

Modifications in the budget or in the Scope of Services of this Agreement that are mutually agreed ___n by the Delegate and ___ shall be effective only if incorporated in written amendments to this Agreement.

**SECTION THIRTY-EIGHT
PERSONS AUTHORIZED TO REPRESENT**

___ shall be represented in all dealings between the parties to this Agreement by its Chief Executive Officer (CEO) or by such other members of the staff of ___ as the CEO may appoint.

IN WITNESS WHEREOF, ___ and the Delegate have executed this Agreement as of the date first above written.

DELEGATE: _____:

SIGNATURE

SIGNATURE

TITLE

Chief Executive Officer

TITLE

DATE

DATE