



CREATED BY GUSNIP NTAE CENTER

Subaward Contract Sample

Sub-Recipient Agreement

This Sub-recipient Agreement (“Agreement”) is by and between **Organization Name**, hereinafter referred to as **"XYZ"**, and **Subgrantee Name** ("subgrantee"), and is effective **Month Day, Year**.

Background

XYZ desires to retain Subgrantee to support in **geography** for the implementation of the USDA grant to offer nutrition incentives to SNAP recipients through participating Subcontractor **stores and farmers markets**, (the "Project"); and Subgrantee represents that it has the personnel with technical expertise, experience, and knowledge to perform such work for **XYZ**.

Agreement

In consideration of the mutual covenants contained herein, the parties agree as follows:

Federal Sub-Recipient Agreement Data

Exhibit A provides a summary of the Federal Sub-Recipient agreement data that is required by 2 CFR Part 200 – *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*. If this Agreement is executed before all information is known, parties agree to enforce all other terms of the Agreement and to amend **Exhibit A** upon receipt of final information from the USDA.

Scope of Services

Subgrantee shall perform and accomplish in a manner satisfactory to **XYZ** those tasks described in **Exhibit B** (the “Services”), which are incorporated herein by reference. The Subgrantee shall exercise the same degree of care, skill, and diligence in the performance of the Services as is ordinarily possessed and exercised by a member of the same profession who is currently practicing under similar circumstances. Subgrantee represents and warrants that all Services will meet the any specifications set forth in **Exhibit A**.

Time of Performance

Term - Subgrantee shall begin performing the Services on or after **Month Day, Year** diligently to complete the Project to the satisfaction of **XYZ**, in accordance with the terms provided herein by **Month Day, Year**.

Extension of Term - The time frame for the completion of the Project under this Agreement may be extended at **XYZ**'s sole discretion upon request by the Subgrantee. Any request for an extension of time to complete the Project shall be made in writing to **XYZ**.

Compensation

Maximum Obligation – During the term of this Agreement, the compensation paid by **XYZ** to Subgrantee for all Services specified herein relating to the Project shall not exceed \$**XX**. **EXHIBIT C** to this Agreement provides an itemized budget with the relevant compensation for each type of Service provided hereunder. **XYZ** shall be entitled to deduct and setoff against all compensation that may otherwise become due under this Agreement the sums paid by **XYZ** to cure or correct any of Subgrantee's defaults.

Contract dependent on funding - This Agreement is dependent on official confirmation of award details of the **GusNIP** grant **TITLE OF GRANT**. This contract will be immediately void upon communication from the USDA to **XYZ** that the grant has been withdrawn and subsequent communication of this fact from **XYZ** to Subgrantee. **XYZ** agrees to provide payment for all costs incurred by Subgrantee before this notice.

In-Kind Services – Subgrantee is not responsible for securing funds beyond what is designated in its own Letter of Commitment in **Exhibit E**, but Subgrantee agrees to document the expenditure of resources to support the project in the amount of \$**XX** as described in **Exhibit C, project budget, and Exhibit E, the Letter of Commitment**.

Method and Time of Payment - Payment shall be made in the following manner:

Subgrantee shall submit invoices on **a quarterly schedule**, according to calendar year quarters, by 45 days after the end of the quarter (e.g., by May 15 for the January-March quarter).

All invoices shall be accompanied by a short narrative report providing an overview of activities undertaken and results achieved against project goals.

All invoices shall indicate any costs incurred during the invoice period by category:

- Personnel: the time spent by the Subgrantee's employees and approved subcontractors assigned to the Project during the invoiced time period, including person/title, hourly wage, and number of hours worked. In addition, subgrantee shall provide backup documentation for cost billed, such as timesheets.
- Fringe: fringe benefits associated with personnel costs, along with the method for calculation.
- Travel: indicate the amount spent on Travel costs during the invoiced period,

along with supporting documentation, including receipts, mileage, or invoices.

- Other – Communications: indicate the amount spent on Communications costs during the invoiced period, along with supporting documentation, including receipts or invoices.
- Other – Incentives: provide a detailed accounting of incentive disbursement by venue.
- In-kind: Subgrantee should use the same invoice format as for reimbursed expenses, and provide the same background documentation for all in-kind expenses committed as noted in **Exhibit E**.

All such invoices will be based on actual costs incurred. Invoices for payment of incentives may be issued separately if desired by Subgrantee and must include a detailed accounting of incentive disbursement.

XYZ shall reimburse Subgrantee within thirty (30) calendar days after the receipt of each invoice.

Subgrantee shall maintain complete records of all costs incurred under this Agreement. All such records shall be maintained on a generally accepted accounting basis for a minimum period of five (5) years after final payment is made under this Agreement and shall be clearly identifiable and readily accessible to authorized representatives of **XYZ**, its auditors and USDA for inspection and audit.

Compensation After Termination - In the event that this Agreement is terminated as provided below, the Subgrantee shall be compensated for all expenses incurred under this Agreement prior to the date of receipt of the termination notice or other termination date specified in such notice. The Subgrantee and any of its subcontractors, agents and legal representatives agree to accept this amount of compensation in full satisfaction of all claims for compensation under this Agreement.

Changes and Additional Services

This Agreement constitutes the entire agreement between **XYZ** and Subgrantee and it may not be amended or altered in any way except by a written amendment signed by both parties to this Agreement; provided, however, that at any time during the term of this Agreement **XYZ**, by written notice to Subgrantee, may modify the scope of the Services to be furnished by Subgrantee under this Agreement. If such modification causes an increase or decrease in the amount of Services to be provided by Subgrantee or in the amount of time required for their performance, equitable adjustment shall be made to the provisions of this Agreement for payments to Subgrantee.

Termination

Either party may terminate this Agreement at any time and for any reason upon thirty (30) days' prior written notice to the other party.

XYZ may terminate this Agreement for Cause (as defined below) immediately upon notice to the subgrantee. "Cause" shall mean: (i) the Subgrantee's contravention of specific written lawful directions from the Organization; (ii) conduct by the Subgrantee in connection with the Services that is fraudulent, unlawful, or negligent; or (iii) conduct by the Subgrantee that, in the sole discretion of XYZ, discredits or damages XYZ.

This Agreement shall terminate automatically upon the dissolution of Subgrantee.

The Subgrantee shall be entitled to be paid the Service Fees for any Services rendered prior to delivery of a notice of termination; provided, however, that no unpaid Service Fees shall be due to the Subgrantee if this Agreement is terminated for Cause.

This Agreement shall terminate automatically upon withdrawal of GusNIP award by the USDA, as noted in Section 4B.

Representation

Subgrantee expressly represents and warrants to XYZ that, as of the date of signing this Agreement, Subgrantee is not a party to any contract or agreement which will or may restrict in any way its ability to fully perform the duties and responsibilities under this Agreement.

Arbitration

XYZ and Subgrantee agree to arbitrate any controversy or claim arising out of this Agreement; provided that XYZ shall have the right to, and be permitted to, seek and obtain injunctive relief from a court of competent jurisdiction. Any such arbitration shall be fully and finally resolved in binding arbitration in a proceeding brought in accordance with the Commercial Arbitration Rules of the American Arbitration Association before a single arbitrator. The arbitration proceedings shall be confidential. The arbitrator shall not have the authority to modify or change any of the terms of this Agreement. The arbitrator's award shall be final and binding upon XYZ and Subgrantee, and judgment upon the award may be entered in any court of competent jurisdiction in any state of the United States or country or application may be made to such court for a judicial acceptance of the award and an enforcement as the law of such jurisdiction may require or allow. The arbitrator may require the losing party thereto, as determined by the arbitrator, to bear the costs and fees incurred in any such arbitration, including legal fees and expenses.

Assignment

The Subgrantee's rights, obligations and duties under this Agreement shall not be assigned in whole or in part without the prior written consent of XYZ. However, claims for money due to the Subgrantee from XYZ under the terms of this Agreement may be assigned to a bank, trust company or other such financial institution, provided that prompt written notice of such an assignment is given to XYZ. None of the Services covered by this Agreement shall be subcontracted without the prior written approval of XYZ.

Independent Contractor

Subgrantee will act as an independent contractor in the performance of the Services under this Agreement. Accordingly, Subgrantee shall be responsible for the payment of all required business license fees and all taxes including Federal, State, and local taxes arising from Subgrantee's activities under the terms of this Agreement.

Copyright and Ownership of Documents

No reports, maps, or other documents produced in whole or in part under this Agreement shall be the subject of an application for copyright by or on behalf of Subgrantee. Ownership of all designs, reports, drawings, studies, estimates, models, computations, and other related items ("Work Product") prepared under this Agreement shall vest in XYZ upon payment to the Subgrantee for all Services rendered herein through the date of the expiration or termination of this Agreement. Subgrantee hereby assigns to XYZ all right, title and interest in any Work Product, including any copyrights or other intellectual property therein.

Conflicts of Interest

Subgrantee hereby certifies that the company and any personnel assigned to work for XYZ under this Agreement are not involved in other community projects that would pose a conflict to the Subgrantee's ability to successfully carry out the responsibilities of this Agreement. If potential conflicts arise during the term of this Agreement, the Subgrantee agrees to notify XYZ immediately in writing and discuss the potential issues and work with XYZ to address any potential issues arising from the situation.

The Subgrantee covenants that it presently has no known personal or pecuniary interest and shall not knowingly acquire such interest, directly or indirectly, which could conflict in any manner with the performance of Services under this Agreement, including the submission of impartial reports and recommendations.

Federal Terms and Conditions

This Agreement shall be subject to all applicable Federal Terms and Conditions provided in Exhibit D attached hereto and incorporated herein by reference.

Indemnification

Subgrantee expressly agrees to defend, indemnify, and hold and save harmless XYZ, its officers, agents, servants and employees for liability of any nature (including, without limitation, reasonable attorneys' fees) related to (i) a breach of this Agreement by Subgrantee; (ii) the Services provided under this Agreement by Subgrantee or arising from any act or omission of Subgrantee or of any employee or agent of Subgrantee; or (iii) infringement or misappropriation or allegation of infringement or misappropriation of any patent, copyright, trade secret, trademark or other proprietary right of any third party relating to any deliverable provided or service performed by Subgrantee.

Certificate Regarding Debarment and Suspension

Subgrantee represents that neither it nor any of its principals has been debarred, suspended or determined ineligible to participate in federal assistance awards or contracts as defined in regulations implementing Office of Management and Budget Guidelines on Governmentwide Debarment and Suspension (Nonprocurement) in Executive Order 12549. Subgrantee further agrees that it will notify XYZ immediately if it or any of its principals is placed on the list of parties excluded from federal procurement or nonprocurement projects available at www.sam.gov.

Confidentiality

Subgrantee acknowledges that, during their association with XYZ, Subgrantee may have access to and possession of Confidential Information. Confidential Information means non-public, personal, and proprietary information and materials concerning XYZ and the personal and business affairs of XYZ staff (“*Protected Parties*”). As part of this Agreement, Subgrantee agrees not to use or assist any person or entity in using, obtaining, communicating or publishing any portion or aspect of Confidential Information for any purpose other than as specifically authorized by XYZ in connection with the performance of services for XYZ, the Protected Parties or its designees. Subgrantee will take all appropriate action to safeguard the confidentiality of the Confidential Information.

Miscellaneous

1. Subgrantee agrees to allow XYZ ability to review Subgrantee single audit, if Subgrantee receives sufficient federal funding to qualify for a single audit. Subgrantee further agrees to provide XYZ with all information necessary for XYZ to complete XYZ’s annual single audit.
2. This Agreement shall be interpreted and enforced in accordance with the laws of the State of State.
3. Any notices required or permitted to be given under this Agreement shall be in writing and shall be deemed delivered only if delivered to the party personally or sent to the party by telecopy or by registered or certified mail (return receipt requested) with postage and registration or certification fees thereon prepaid, addressed to the party at its address set forth below:

To the Organization:

Organization Name
Attention: [Primary Contact]
Address
City, State ZIP Code

To Subgrantee:

Organization Name
Attention: [Primary Contact]
Address
City, State ZIP Code

4. The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions hereof, and this Agreement shall be construed in all respects as if such invalid or unenforceable provision were omitted.
5. No change, waiver or satisfaction of any of the provisions of this Agreement shall be valid unless in writing and signed by the parties.
6. This Agreement shall be binding upon the parties, their permitted successors and assigns. Notwithstanding the foregoing, this Agreement may not be assigned by either party without the prior written consent of the other party.
7. This Agreement constitutes the full and complete understanding of the parties hereto with respect to the subject matter of this Agreement. All prior written or oral agreements or communications concerning the subject matter hereof are hereby canceled and terminated.
8. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument, and it shall not be necessary in making proof of this Agreement to produce or account for more than one such counterpart.

IN WITNESS WHEREOF, the parties hereto have signed this Agreement on the dates set forth below.

NAME

NAME

By:

 NAME
 TITLE

By:

 NAME
 TITLE

Date:

Date:

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