

RESOLUTION NO. 2009-293

First Reading Passage Requested
J. Dodson

SPONSOR Mr. Pry

DATE August 10, 2009

COMMITTEE Human Services

A Resolution authorizing the County Executive to execute a subgrant agreement with the Ohio Department of Job and Family Services for grants received by the County of Summit Children Services Board during State Fiscal Years 2010 and 2011 (July 1, 2009 through June 30, 2011), for the Executive and Children Services Board, and declaring an emergency.

WHEREAS, Section 5101.21 of the Ohio Revised Code was amended to state that, commencing July 1, 2008, the Ohio Department of Job and Family Services may only make grants to counties through subgrant agreements as described in that Section; and

WHEREAS, in conformance with Section 5101.21 of the Ohio Revised Code, the Ohio Department of Job and Family Services developed a standard subgrant agreement to be executed by the commissioners of each county prior to receiving Department of Job and Family Services grant funds; and

WHEREAS, the County of Summit Children Services Board has received from the Ohio Department of Job and Family Services the standard subgrant agreement for State Fiscal Years 2010 and 2011 (July 1, 2009 through June 30, 2011) that sets forth the rights and responsibilities of both the Ohio Department of Job and Family Services and the County of Summit Children Services Board in relation to any grant that is awarded for State Fiscal Years 2010 and 2011; and

WHEREAS, the County of Summit Children Services Board anticipates receiving grant funds from the Ohio Department of Job and Family Services for State Fiscal Years 2010 and 2011; and

WHEREAS, after reviewing all pertinent information, this Council has determined that it is necessary and in the best interest of the County of Summit to authorize the County Executive to execute said subgrant agreement for State Fiscal Years 2010 and 2011.

NOW, THEREFORE, BE IT RESOLVED by the Council of the County of Summit, State of Ohio, that:

SECTION 1

The County Executive is hereby authorized to execute a subgrant agreement with the Ohio Department of Job and Family Services for grants received by the County of Summit Children Services Board for State Fiscal Years 2010 and 2011 (July 1, 2009 through June 30, 2011). A copy of said subgrant agreement is attached hereto as Exhibit A and incorporated herein by reference.

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SECTION 2

This Resolution is hereby declared an emergency in the interest of the health, safety, and welfare of the citizens of the County of Summit, and for the further reason that it is necessary to immediately execute said subgrant agreement so that the County of Summit Children Services Board is eligible to be awarded grant funds from the Ohio Department of Job and Family Services for State Fiscal Years 2010 and 2011.

SECTION 3

Provided this Resolution receives the affirmative vote of eight members, it shall take effect immediately upon its adoption and approval by the Executive; otherwise, it shall take effect and shall be in force at the earliest time provided by law.

SECTION 4

It is found and determined that all formal action of this Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

INTRODUCED August 10, 2009

ADOPTED August 10, 2009


CLERK OF COUNCIL


PRESIDENT OF COUNCIL

APPROVED August 10, 2009


EXECUTIVE

ENACTED EFFECTIVE August 10, 2009

Voice Vote: 10-0 YES: Comunale, Crawford, Crossland, Feeman, Kostandaras
Poda, Prentice, Rodgers, Schmidt, Smith ABSENT: Shapiro

OHIO DEPARTMENT OF JOB AND FAMILY SERVICES
SUBGRANT AGREEMENT

G-1011-11-5117

RECITALS:

This Subgrant Agreement is entered into between the Ohio Department of Job and Family Services (hereinafter referred to as "ODJFS") and the Summit County Executive, pursuant to authorization by the Summit County Council (hereinafter referred to as "Executive"), jointly with other county signers if required by division (C) of section 5101.21 of the Revised Code, in accordance with sections 307.98 and 5101.21 of the Revised Code.

This Subgrant Agreement is made pursuant to the grant award(s) identified in the Addenda to this Subgrant Agreement. These grant awards were awarded to the State of Ohio by the United States Department of Health and Human Services (HHS) and are not for research and development purposes.

DEFINITIONS:

- A. "County family services agency" means a county department of job and family services (CDJFS) and/or a public children services agency (PCSA) and/or a child support enforcement agency (CSEA), as designated in section 307.981 of the Revised Code.
- B. "Family services duty" means a duty required by state law allowing a county family services agency to perform all financial and administrative functions associated with the performances of those duties. Family services duty does not include duties or activities funded or authorized by the Workforce Investment Act ("WIA"), Chapter 4141 of the Revised Code, the Wagner-Peyser Act, or any other funds for which the United States Department of Labor is responsible for direct or indirect oversight;
- C. "Financial assistance" means all cash, reimbursements, allocations of funds, cash draws, and property that is provided by ODJFS to a county family services agency. All requirements in this Agreement related to financial assistance also apply to public money, as defined in section 117.01 of the Revised Code, used by the county to match state or federal funds; and
- D. "State and federal laws" include all federal statutes and regulations, appropriations by the Ohio General Assembly, the Revised Code, uncodified law included in an Act, Ohio Administrative Code (OAC) rules, any Treasury State Agreement or state plan, and any federal Office of Management and Budget (OMB) circulars that a federal statute or regulation has made applicable to state and local governments. State and federal laws also include any Governor's Executive Orders to the extent that they apply to counties and ODJFS Procedure Manuals. The term "state and federal laws" includes all state and federal laws as listed in this paragraph and existing on the effective date of this Agreement as well as those state and federal laws that are enacted, adopted, issued, effective, amended, repealed, or rescinded on or after the effective date of this Agreement.

THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS CONTAINED IN THIS SUBGRANT AGREEMENT, THE PARTIES AGREE AS FOLLOWS:

ARTICLE I. PURPOSE OF THE SUBGRANT/SUBGRANT DUTIES

- A. The purpose of the Subgrant and this Subgrant Agreement is to establish the terms, conditions, and requirements governing the administration and use of the financial assistance received by or used by each county family services agency included in this agreement.
- B. This Subgrant Agreement is entered into on behalf of the following county family services agency (hereinafter referred to as "SUBGRANTEE") as indicated by the checked box below:

- The county department of job and family services (CDJFS) that performs all CDJFS duties set forth in Revised Code (R.C.) 329.04, but the CDJFS does not perform any duties assigned to a public children services agency or a child support enforcement agency.

- The CDJFS that is a combined agency and performs all CDJFS duties set forth in R.C. 329.04 and all public children services duties, but the CDJFS does not perform any duties assigned to a child support enforcement agency.
- The CDJFS that is a combined agency and performs all CDJFS duties set forth in R.C. 329.04 and all child support enforcement duties, but the CDJFS does not perform any duties assigned to a public children services agency.
- The CDJFS that is a combined agency and performs all CDJFS duties set forth in R.C. 329.04 and all public children services duties and all child support enforcement duties.
- The CDJFS that is a combined agency and performs all CDJFS duties set forth in R.C. 329.04 and also the separate public children services agency (PCSA) that is a county children services board appointed under R.C. 5153.03. The Summit County Executive and the county children services board have jointly entered into this Subgrant Agreement and both parties have signed this Subgrant Agreement on behalf of the CDJFS and the PCSA.
- The CSEA that is a stand alone agency and performs all duties assigned to a child support enforcement agency.
- The PCSA that is a stand alone agency and performs all duties assigned to a public children services agency.

ARTICLE II. RESPONSIBILITIES OF ODJFS

ODJFS agrees to:

- A. Provide funding to the family services agency in accordance with this Subgrant Agreement and state and federal laws.
- B. Provide annual financial, administrative, or other incentive awards to county family services agencies as specified in R.C. 5101.23, if applicable.
- C. Monitor SUBGRANTEE to provide reasonable assurance that the Subgrant is used in accordance with all applicable conditions, requirements, and restrictions.
- D. Provide information on current and any subsequent changes to the terms and conditions of the grant awards addressed by the funding in this agreement.
- E. Provide technical assistance and training to assist SUBGRANTEE in fulfilling its obligation under this agreement.
- F. Take action to recover funds that are not used in accordance with the conditions, requirements, or restrictions applicable to the family services duties for which these funds are awarded. Any ODJFS enforcement action against SUBGRANTEE will be taken in accordance with R.C. 5101.24 unless another section provides authority for a different action. If ODJFS takes an action authorized by R.C. 5101.24, ODJFS will provide written notice to the Executive, the county auditor, and the family services agency director. The entity against which any action is taken may request an administrative review in accordance with R.C. 5101.24 and the OAC.

ARTICLE III. RESPONSIBILITIES OF SUBGRANTEE

SUBGRANTEE agrees to:

- A. Ensure that the funds included in this Subgrant Agreement are used, and the family services duties for which the grants are awarded are performed, in accordance with conditions, requirements and restrictions applicable to the duties established by the department and state and federal laws, as well as the federal terms and conditions of the grant award.

- B. Utilize a financial management system that meets the requirements established by ODJFS and use the ODJFS designated software programs to report financial and other data according to the timeliness standards established by ODJFS. SUBGRANTEE will provide to ODJFS all program and financial reports and updates in accordance with the timeliness schedules and formats established by ODJFS.
- C. Promptly reimburse ODJFS for any funds ODJFS pays to any entity because of an adverse audit finding, adverse quality control finding, final disallowance of federal financial participation, or other sanction or penalty for which SUBGRANTEE is responsible that results from any action by ODJFS pursuant to R.C. 5101.24.
- D. Take prompt corrective action, including paying amounts resulting from an adverse finding, sanction, or penalty, if ODJFS, the Ohio Auditor of State, any federal agency, or other entity authorized by federal or state law to determine compliance with the conditions, requirements, and restrictions applicable to a family services duty for which this Subgrant is awarded determines compliance has not been achieved.
- E. Make records available to ODJFS, the Auditor of the State, federal agencies, and other authorized governmental agencies for review, audit and investigation.
- F. Provide and ensure the existence of local non-federal funds for the purpose of matching any federal funding for allowable operating expenses incurred by SUBGRANTEE.

ARTICLE IV. EFFECTIVE DATE OF THE SUBGRANT

- A. This Subgrant Agreement will be in effect from July 1, 2009, through June 30, 2011, unless this Subgrant Agreement is suspended or terminated pursuant to ARTICLE VII prior to the above termination date.
- B. In addition to Section A above, it is expressly understood by both ODJFS and SUBGRANTEE that this Subgrant Agreement will not be valid and enforceable until the Director of the Office of Budget and Management, State of Ohio, first certifies, pursuant to section 126.07 of the Ohio Revised Code (R.C.), that there is a balance in the appropriation not already allocated to pay current obligations.

ARTICLE V. AMOUNT OF GRANT/PAYMENTS

- A. The total amount of the Subgrant for State Fiscal Years (SFY) 2010 and 2011 will be provided to SUBGRANTEE in an Addendum to this agreement at the beginning of each SFY. ODJFS will provide this funding expressly to perform the Subgrant activities described in ARTICLE I of this Subgrant Agreement. This amount will be determined by the methodology required by OAC 5101:9-6. ODJFS will advise SUBGRANTEE of revisions to subgrant amounts through the issuance of supplements to the Addenda as changes arise.
- B. SUBGRANTEE will limit cash draws from ODJFS to the minimum amount needed for actual, immediate requirements in accordance with the Cash Management Improvement Act, 31 CFR Part 205, 45 CFR Parts 74 and 92, Transmittal No. TANF-ACF-PI-01-02 issued by the United States Department of Health and Human Services, and ODJFS requirements including Chapter 7 of the Fiscal Administrative Procedures Manual.
- C. SUBGRANTEE understands that availability of funds is contingent on appropriations made by the Ohio General Assembly or by funding sources external to the State of Ohio, including federal funds. If at anytime the ODJFS Director determines that state or federal funds are insufficient to sustain existing or anticipated spending levels, the ODJFS Director may reduce, suspend, or terminate any allocation, reimbursement, cash draw, or other form of financial assistance as the Director determines appropriate. If the Ohio General Assembly or the external funding source fails at any time to continue funding ODJFS for the payments due under this Subgrant Agreement, this Subgrant Agreement will be terminated as of the date funding expires without further obligation of ODJFS or the State of Ohio.
- D. As a subrecipient of federal funds, SUBGRANTEE hereby specifically acknowledges its obligations relative to all federal funds provided under this Subgrant Agreement pursuant to OMB Circulars A-110 (2 CFR 215), A-122 (2 CFR 230), A-87 (2 CFR 225), and A-133 as well as 45 CFR 92, including but not limited to the following federal rules:

1. Standards for financial management systems: SUBGRANTEE and its subgrantee(s) will comply with the requirements of 45 CFR 92.20, including, but not limited to:
 - a. Fiscal and accounting procedures;
 - b. Accounting records;
 - c. Internal control over cash, real and personal property, and other assets;
 - d. Budgetary control to compare actual expenditures or outlays to budgeted amounts;
 - e. Source documentation; and
 - f. Cash management.
2. Period of Availability of Federal Funds: Pursuant to 45 CFR 92.23, SUBGRANTEE and its subgrantee(s) may charge to the award only costs resulting from obligations incurred during the funding period specified in the Addenda to this Subgrant Agreement, unless carryover of these balances is permitted. All obligations incurred under the award must be liquidated no later than ninety (90) days after the end of the funding period of availability, pursuant to federal law.
3. Matching or Cost Sharing: Pursuant to 45 CFR 92.24, matching or cost sharing requirements applicable to the Federal program must be satisfied by allowable costs incurred or third-party in-kind contributions and must be clearly identified and used in accordance with all applicable federal and state laws.

For Federal programs in which state funds are made available to use as matching funds, the subgrantee is required to use local funds for matching funds in the event that the state funding allocated for that purpose is exhausted.
4. Program Income: Program income must be used as specified in 45 CFR 92.25.
5. Real Property: If SUBGRANTEE is authorized to use Subgrant funds for the acquisition of real property, title, use, and disposition of the real property will be governed by the provisions of 45 CFR 92.31.
6. Equipment: Title, use, management (including record keeping, internal control, and maintenance), and disposition of equipment acquired by SUBGRANTEE or its subgrantee(s) with Subgrant funds, will be governed by the provisions of 45 CFR 92.32.
7. Supplies: Title and disposition of supplies acquired by SUBGRANTEE or its subgrantee(s) with Subgrant funds will be governed by the provisions of 45 CFR 92.33.

ARTICLE VI. AUDITS OF SUBGRANTEE

- A. SUBGRANTEE agrees to provide for timely audits as required by OMB Circular A-133, unless a waiver has been granted by a federal agency. Subject to the threshold requirements of 45 CFR 92.26 and OMB Circular A-133, SUBGRANTEE must ensure that the county of which they are a part has an audit with a scope as provided in OMB Circular A-133, Subpart E, §_500 that covers funds received under this agreement. SUBGRANTEE must send one (1) copy of the final audit report to the ODJFS Office of the Chief Inspector at 30 East Broad Street, 32nd Floor, Columbus, Ohio 43215, within two (2) weeks of the SUBGRANTEE's receipt of any such audit report.
- B. SUBGRANTEE will take prompt action to correct problems identified in an audit.

ARTICLE VII. SUSPENSION AND TERMINATION, BREACH AND DEFAULT

- A. This Subgrant Agreement may be terminated in accordance with any of the following:

1. The parties may mutually agree to a termination by entering into a written termination agreement that is signed by the ODJFS Director and the Executive and other county signatories to this Subgrant Agreement, and the termination agreement is adopted by resolution. An agreement to terminate is effective on the later of the date stated in the agreement to terminate, the date it is signed by all parties, or the date the termination agreement is adopted by resolution.
 2. Either party may terminate after giving ninety (90) days written notice of termination to the other party by registered United States mail, return receipt requested. The effective date is the later of the termination date specified in the termination notice or the 91st day following the receipt of the notice by the other party.
 3. ODJFS may immediately terminate this Subgrant Agreement if there is a loss of federal or state funds, a disapproval of the Subgrant Agreement by a federal administrative agency, or illegal conduct affecting the operation of the Subgrant Agreement. In the event of such a termination, ODJFS will send a notice to the Executive and other county signatories to this Subgrant Agreement, specifying the reason for the termination and the effective date of the termination.
- C. Pursuant to R.C. 5101.24 and 45 CFR 92.43, as applicable, if SUBGRANTEE or any of its subgrantee(s) materially fails to comply with any term of an award, a federal statute or regulation, an assurance, a State plan or application, a notice of award, this Subgrant Agreement, or any other applicable rule, ODJFS may take any or all of the following actions it deems appropriate in the circumstances:
1. Temporarily withhold cash payments pending correction of the deficiency by the SUBGRANTEE or its subgrantee(s) or more severe enforcement action;
 2. Disallow all or part of the cost of the Subgrant activity or action not in compliance;
 3. Wholly or partly suspend or terminate the current award for the SUBGRANTEE or its subgrantee(s)' Subgrant activity;
 4. Withhold further awards for the Subgrant activity; or
 5. Take any other remedies that may be legally available, including the additional remedies listed elsewhere in this Subgrant Agreement.
- D. SUBGRANTEE, upon receipt of a notice of suspension or termination, will do all of the following:
1. Cease the performance of the suspended or terminated Subgrant activities under this Subgrant Agreement;
 1. Take all necessary steps to limit disbursements and minimize costs that include, but are not limited to, the suspension or termination of all contracts and subgrants correlated to the suspended or terminated Subgrant activities;
 2. Prepare and furnish a report to ODJFS, as of the date SUBGRANTEE received the notice of termination or suspension that describes the status of all Subgrant activities and includes details of all Subgrant activities performed and the results of those activities; and
 3. Perform any other tasks that ODJFS requires.
- E. Upon breach or default by SUBGRANTEE of any of the provisions, obligations, or duties embodied in this Subgrant Agreement, ODJFS will retain the right to exercise any administrative, contractual, equitable, or legal remedies available, without limitation. A waiver by ODJFS of any occurrence of breach or default is not a waiver of subsequent occurrences. If ODJFS or SUBGRANTEE fails to perform any obligation under this Subgrant Agreement and the failure is subsequently waived by the other party, the waiver will be limited to that particular occurrence of a failure and will not be deemed to waive failures that may subsequently occur.

ARTICLE VIII. NOTICES

- A. Notices to ODJFS from SUBGRANTEE that concern this award, termination, suspension, breach, default, or other formal notices regarding this Subgrant Agreement will be sent to the ODJFS Deputy Director of Fiscal and Monitoring Services at 30 East Broad Street, 30th Floor, Columbus, Ohio 43215.
- B. Notices to the SUBGRANTEE from ODJFS concerning any and all matters regarding this Subgrant Agreement will be sent to the Executive and other county signatories to this Agreement.
- C. All notices in accordance with Section A of this ARTICLE VIII will be in writing and will be deemed given when received. All notices must be sent using a delivery method that documents actual delivery to the appropriate address herein indicated (e.g., certified mail).

ARTICLE IX. AMENDMENT, ADDENDUM, AND SUBGRANTS

- A. **Amendment:** This document, along with any related addenda, constitutes the entire agreement between ODJFS and SUBGRANTEE with respect to all matters herein. Otherwise, only a document signed by both parties may amend this Subgrant Agreement. Both ODJFS and SUBGRANTEE agree that any amendments to laws or regulations cited herein will result in the correlative modification of this Subgrant Agreement without the necessity for executing written amendments. Any written amendment to this Subgrant Agreement will be prospective in nature.

If ODJFS notices a need for correction of erroneous terms and conditions, it will immediately send SUBGRANTEE an amended Subgrant Agreement for signature. If SUBGRANTEE notices a need for correction of erroneous terms and conditions, it will immediately notify ODJFS.

- B. **Addenda:** ODJFS will provide information concerning the amount of the funding, the source of the federal funds, and the terms and conditions in Addenda to this Subgrant Agreement. Any Addenda to this Subgrant Agreement will not need to be signed. Any draw of the funds following the receipt of an Addendum will constitute acceptance of the terms and conditions contained in that addendum. ODJFS will advise the Subgrantee of subsequent changes in the amounts, the source, or the terms and conditions listed in the Addenda through issuance of a supplement to the Addenda. Any draw of the modified funding will constitute acceptance of the terms and conditions contained in the supplemented Addendum.

- C. **Subgrants**

1. Any subgrants made by SUBGRANTEE to a university, hospital, other nonprofit, or commercial organization will be made in accordance with 45 CFR 92.37 and will impose the requirements of 45 CFR Part 74 as well as state law. Any award of a subgrant to another entity shall be made by means of a county subgrant agreement which requires the entity awarded the county subgrant to comply with all conditions, requirements, and restrictions applicable to SUBGRANTEE regarding the grant that SUBGRANTEE subgrants to the entity, including the conditions, requirements, and restrictions of section 5101.21 of the Revised Code.
2. **Debarment and Suspension:** As provided in 45 CFR 92.35, SUBGRANTEE and its subgrantees must not make any award or permit any award at any tier to any party that is debarred or suspended or is otherwise excluded from or ineligible for participation in federal assistance programs.
3. **Procurement:** While SUBGRANTEE and its subgrantees may use their own procurement procedures, the procedures must conform to all applicable federal laws, including, as applicable, 45 CFR 92.36 and 45 CFR 74.40 through 45 CFR 74.48. In the event of conflict between federal, state, and local requirements, the most restrictive must be used.
4. **Monitoring:** SUBGRANTEE must manage and monitor the routine operations of Subgrant supported activities, including each project, program, subgrant, and function supported by the Subgrant, to ensure compliance with all applicable federal requirements, including 45 CFR 92.40. If SUBGRANTEE discovers that subgrant funding has not been used in accordance with state and federal laws, SUBGRANTEE must take action to recover such funding.

5. Duties as Pass-through Entity: Perform those functions required under state and federal laws as a subrecipient of ODJFS under this Subgrant Agreement and as a pass-through entity of any awards of subgrants to other entities.

ARTICLE X. MISCELLANEOUS PROVISIONS

- A. **Limitation of Liability:** To the extent permitted by law, ODJFS agrees to be responsible for any liability directly relating to any and all acts of negligence by ODJFS. To the extent permitted by law, SUBGRANTEE agrees to be responsible for any liability directly related to any and all acts of negligence by SUBGRANTEE. In no event shall either party be liable for any indirect or consequential damages, even if ODJFS or SUBGRANTEE knew or should have known of the possibility of such damages.
- B. This Subgrant Agreement will be governed, construed, and enforced in accordance with the laws of the State of Ohio. Should any portion of this Subgrant Agreement be found unenforceable by operation of statute or by administrative or judicial decision, the remaining portions of this Subgrant Agreement will not be affected as long as the absence of the illegal or unenforceable provision does not render the performance of the remainder of the Subgrant Agreement impossible.
- C. Nothing in this Subgrant Agreement is to be construed as providing an obligation for any amount or level of funding, resources, or other commitment by ODJFS to the Executive, to any county signer required by division (B) of section 5101.21 of the Revised Code, or to any county family services agency that is not specifically set forth in state and federal law. Nothing in this Subgrant Agreement is to be construed as providing a cause of action in any state or federal court or in an administrative forum against the State of Ohio, ODJFS, or any of the officers or employees of the State of Ohio or ODJFS.

Signature Page Follows

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**OHIO DEPARTMENT OF JOB AND FAMILY SERVICES
SUBGRANT AGREEMENT**

SIGNATURE PAGE

G-1011-11-5117

IN WITNESS WHEREOF, THE PARTIES HAVE EXECUTED THIS SUBGRANT AGREEMENT AS OF THE DATE OF THE SIGNATURE OF THE DIRECTOR OF THE OHIO DEPARTMENT OF JOB AND FAMILY SERVICES.

Summit PCSA
SUMMIT COUNTY CHILDREN SERVICES

OHIO DEPARTMENT OF JOB AND FAMILY SERVICES

PCSA Director _____ Date _____
JOHN SAROS, EXECUTIVE DIRECTOR

Douglas E. Lumpkin, Director

County Executive _____ Date _____

Date _____

**APPROVED AS TO FORM & LEGAL CONTENT
SUMMIT COUNTY CHILDREN SERVICES BOARD
LEGAL & RISK MANAGEMENT DIVISION**

ATT'Y SIG. Monte A. Jernigan Esq.
DATE 7/7/09