
EXHIBIT A

STANDARD GRANT AGREEMENT

GENERAL TERMS AND CONDITIONS

(PHMC - Revised 7/04)

Acknowledgments

The Grantee agrees that a notice shall be included in all announcements and published material relating to the project stating, **"This project is supported by a grant from the Pennsylvania Historical and Museum Commission."** If the Grantee receives other funds, the statement should be modified to read: **"This project is supported jointly by a grant from the Pennsylvania Historical and Museum Commission and the (name of other organization or agency)."**

Adherence to Original Budget Estimates

The Grantee agrees to use Pennsylvania Historical and Museum Commission (PHMC) funds exclusively for support of the approved project objectives. Changes to the project budget must be approved in writing by the PHMC. PHMC will not authorize funds in excess of the grant award.

Adherence to Original Objectives

The Grantee is obligated to achieve the original project objectives. The PHMC must give prior written approval if a modification would result in a deviation from the original objective(s) or project scope.

Americans with Disabilities Act

During the term of this Grant Agreement Contract (Contract), the Grantee agrees as follows:

Pursuant to federal regulations promulgated under the authority of the Americans with Disabilities Act, 28 C.F.R. § 35.101 *et seq.*, the Grantee understands and agrees that it shall not cause any individual with a disability to be excluded from participation in this Contract or from activities provided for under this Contract on the basis of the disability. As a condition of accepting and executing this Contract, the Grantee agrees to comply with the "General Prohibitions Against_Discrimination," 28

C.F.R. § 35.130, and all other regulations promulgated under Title II of The Americans with Disabilities Act which are applicable to all benefits, services, programs, and activities provided by the Commonwealth of Pennsylvania through contracts with outside Contractors.

The Grantee shall be responsible for and agrees to indemnify and hold harmless the Commonwealth of Pennsylvania from all losses, damages, expenses, claims, demands, suits, and actions brought by any party against the Commonwealth of Pennsylvania as a result of the Grantee's failure to comply with the provisions of the paragraph above.

Applicable Law

This Agreement shall be governed by and interpreted and enforced in accordance with the laws of the Commonwealth of Pennsylvania (without regard to any conflict of laws provisions) and the decisions of the Pennsylvania courts. The Grantee consents to the jurisdiction of any court of the Commonwealth of Pennsylvania and any federal courts in Pennsylvania, waiving any claim or defense that such forum is not convenient or proper. The Grantee agrees that any such court shall have in personam jurisdiction over it, and consents to service of process in any manner authorized by Pennsylvania law.

Assumption of Legal Responsibility of Grantee

The Grantee assumes sole legal responsibility for any claims for damages asserted against the Commonwealth of Pennsylvania, its instrumentality, the PHMC, or any employees thereof, resulting from the negligence or willful actions of Grantee involving but not limited to copyright infringement, violation of personal privacy, misappropriation of ideas or rights and literary piracy or plagiarism. The assumption of legal responsibility by Grantee shall include but not be limited to the assertion of defenses on the part of the Commonwealth of Pennsylvania, its instrumentality, the PHMC and employees thereof, and the costs of such assertion. The PHMC will give Grantee prompt notice of such claims brought to its attention and Grantee may control the defense or settlement thereof. However, the Commonwealth of Pennsylvania reserves the right for itself, its instrumentality, the PHMC or the employees thereof, to participate in the defense of any such claim through its Attorney General at its own expense.

Audit Provisions

The Commonwealth and its authorized agents shall have the right, at reasonable times and at a site designated by the Commonwealth, to inspect or audit the books, documents and records of the Grantee to the extent that the books, documents and records relate to costs or pricing data for the Contract. The Grantee agrees to maintain records, which will support the prices charged and costs incurred for the Contract.

The Grantee shall preserve books, documents and records that relate to costs or pricing data for the Contract for a period of three (3) years from the date of submission of the final report. The Grantee shall give full and free access to all records to the Commonwealth and/or their authorized representatives.

Changes in Personnel

Written PHMC approval is required if, during the course of the project, there is to be a permanent change in principal staff and/or project director from that specified in the original grant application or project description.

Contractor Responsibility Provisions

For the purpose of these provisions, the term Contractor is defined as any person, including, but not limited to, a bidder, offeror, loan recipient, grantee, or subgrantee, who has furnished or seeks to furnish goods, supplies, services, or leased space, or who has performed or seeks to perform construction activity under contract, subcontract, grant, or subgrant with the Commonwealth, or with a person under contract, subcontract, grant or subgrant with the Commonwealth or its state-affiliated entities, and state-related institutions. The term Contractor may include a permittee, licensee, or any agency, political subdivision, instrumentality, public authority, or other entity of the Commonwealth.

1. The Contractor must certify, in writing, for itself and all its subcontractors, that as of the date of its execution of this Contract, that neither the Contractor, nor any subcontractors, nor any suppliers are under suspension or debarment by the Commonwealth or any governmental entity, instrumentality, or authority and, if the Contractor cannot so certify, then it agrees to submit, along with the bid/proposal, a written explanation of why such certification cannot be made.
2. The Contractor must also certify, in writing, that as of the date of its execution of this Contract, it has no tax liabilities or other Commonwealth obligations.
3. The Contractor's obligations pursuant to these provisions are ongoing from and after the effective date of the Contract through the termination date thereof. Accordingly, the Contractor shall have an obligation to inform the Commonwealth if, at any time during the term of the Contract, it becomes delinquent in the payment of taxes, or other Commonwealth obligations, or if it or any of its subcontractors are suspended or debarred by the Commonwealth, the federal government, or any other state or governmental entity. Such notification shall be made within 15 days of the date of suspension or debarment.

4. The failure of the Contractor to notify the Commonwealth of its suspension or debarment by the Commonwealth, any other state, or the federal government shall constitute an event of default of the Contract with the Commonwealth.

5. The Contractor agrees to reimburse the Commonwealth for the reasonable costs of investigation incurred by the Office of State Inspector General for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the Commonwealth, which results in the suspension or debarment of the Contractor. Such costs shall include, but shall not be limited to, salaries of investigators, including overtime; travel and lodging expenses; and, expert witness and documentary fees. The Contractor shall not be responsible for investigative costs for investigations that do not result in the Contractor's suspension or debarment.

6. The Contractor may obtain a current list of suspended and debarred Commonwealth Contractors by either searching the internet at <http://www.dgsapp.state.pa.us/debarmentlist> or contacting the:

Department of General Services
Office of Chief Counsel
603 North Office Building
Harrisburg, PA 17125
Telephone Number (717) 783-6472
FAX Number (717) 787-9138

Contractor Integrity Provisions

For the purposes of this clause only, the words "confidential information," "consent," "Contractor," "financial interest," and "gratuity" shall have the following definitions.

1. **Confidential information** means information that is not public knowledge or available to the public on request, disclosure of which would give an unfair, unethical, or illegal advantage to another desiring to contract with the Commonwealth.

2. **Consent** means written permission signed by a duly authorized officer or employee of the Commonwealth, provided that where the material facts have been disclosed, in writing, by pre-qualification, bid, proposal or contractual terms, the Commonwealth shall be deemed to have consented by virtue of execution of this Contract.

3. **Contractor** means the individual or entity that has been entered into the Contract with the Commonwealth, including directors, officers, partners, managers, key employees, and owners of more than five percent interest.

4. **Financial interest** means:

- a. ownership of more than five percent interest in any business; or
- b. holding a position as an officer, director, trustee, partner, employee, or the like, or holding any position of management.

5. **Gratuity** means any payment of more than nominal monetary value in the form of cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind.

The Contractor shall maintain the highest standards of integrity in the performance of this Contract and shall take no action in violation of state or federal laws, regulations, or other requirements that govern contracting with the Commonwealth.

The Contractor shall not disclose to others any confidential information gained by virtue of the Contract.

The Contractor shall not, in connection with this or any other agreement with the Commonwealth, directly or indirectly, offer, confer or agree to confer any pecuniary benefit on anyone as consideration for the decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty by any officer or employee of the Commonwealth.

The Contractor shall not, in connection with this or any other agreement with the Commonwealth, directly or indirectly, offer, give or agree or promise to give to anyone any gratuity for the benefit of or at the direction or request of any officer or employee of the Commonwealth.

Except with the consent of the Commonwealth, neither the Contractor nor anyone in privity with him or her shall accept or agree to accept from, or give or agree to give to, any person, any gratuity from any person in connection with the performance of work under the Contract except as provided therein.

Except with the consent of the Commonwealth, the Contractor shall not have a financial interest in any other contractor, subcontractor, or supplier providing services, labor or material on this project.

The Contractor, upon being informed that any violation of these provisions has occurred or may occur, shall immediately notify the Commonwealth in writing.

The Contractor, by execution of this Contract, and by the submission of any bills or invoices for payment pursuant thereto, certifies and represents that he has not violated any of these provisions.

The Contractor, upon the inquiry or request of the Inspector General of the Commonwealth or any of that official's agents or representatives, shall provide, or if appropriate, make promptly available for inspection or copying, any information of any type or form deemed relevant by the Inspector General to the Contractor's integrity or responsibility, as those terms are defined by the Commonwealth's statutes, regulations, or management directives. Such information may include, but shall not be limited to, the Contractor's business or financial records, documents or files of any type or form which refers to or concern the Contract. Such information shall be retained by the Contractor for a period of three years beyond the termination of the Contract unless otherwise provided by law.

For violation of the above provisions, the Commonwealth may terminate this and any other agreement with the Contractor, claim liquidated damages in an amount equal to the value of anything received in breach of these provisions, claim damages for all expenses incurred in obtaining another Contractor to complete performance hereunder, and debar and suspend the Contractor from doing business with the Commonwealth. These rights and remedies are cumulative, and the use or non-use of any one shall not preclude the use of all or any other. These rights and remedies are in addition to those the Commonwealth may have under law, statute, regulation, or otherwise.

Disallowed Costs

Should the Grantee fail to comply with the terms and conditions of this Agreement, the Grantee shall be responsible for repayment of grant funds to PHMC within thirty days of notice of non-compliance. Costs claimed and disallowed following audit, shall also be repaid to PHMC by Grantee within thirty days of notice of disallowed costs. Costs are allowable only if approved in the budget. All other costs are unallowable unless approved, in writing, by the PHMC.

Effective Date

The Effective Date of the agreement shall be the date the Agreement has been fully executed by the Grantee and by the Commonwealth and all approvals required by the Commonwealth contracting procedures have been obtained. The Agreement shall not be a legally binding contract until after the fully executed Agreement has been sent to the Grantee. The Grantee shall not start any PHMC grant funded activities before the effective date. PHMC shall not be liable for any supply furnished or work performed or expenses incurred including matching funds before the Effective Date or before the Grantee receives a copy of the fully executed agreement. Because PHMC cannot guarantee the grant funding until the Agreement is fully executed, it recommends that no work on the project begin until the Grantee receives its fully executed copy of the grant agreement.

Equipment

Unless otherwise agreed in writing, PHMC shall be the owner of all equipment or fixed assets purchased or fabricated with PHMC grant funds.

Fair Labor Standards

If applicable, Grantees are required to abide by the Pennsylvania Prevailing Wage Act P.L. 987 whenever project work involves construction and the estimated cost of the total project is in excess of \$25,000.

The Grantee shall comply with all applicable federal and state laws and regulations and local ordinances in the performance of this Agreement including but not limited to labor standards.

Hold Harmless Clause

The Grantee shall hold the Commonwealth harmless from and indemnify the Commonwealth against any and all claims, demands and actions based upon or arising out of any activities performed by the Grantee and its employees and agents under this Contract and shall, at the request of the Commonwealth, defend any and all actions brought against the Commonwealth based upon any such claims or demands.

Income

Income or revenue may be generated by activities supported by grant funds. Grantee agrees that earned income or revenue in excess of original estimates indicated in the Grant Application must be returned to the PHMC within thirty (30) days after the project termination date. Grantee is authorized to apply or otherwise use income resulting from interest earned against PHMC funds to further the grant project as described in the Contract. No other use of interest earnings is permitted.

Independent Contractor

In performing its obligations under this Agreement, the Grantee will act as an independent contractor and not as an employee or agent of the Commonwealth or PHMC.

Integration Provision

This Contract, including all referenced documents, constitutes the entire agreement between the parties. No agent, representative, employee or officer of either the Commonwealth or the Grantee has the authority to make, or has made, any statement, agreement or representation, oral or written, in connection

with this Contract, which in any way can be deemed to modify, add to or detract from, or otherwise change or alter its terms and conditions. No negotiations between the parties, nor any custom or usage, shall be permitted to modify or contradict any of the terms and conditions of this Contract. No modifications, alterations, changes, or waiver to this Contract or any of its terms shall be valid or binding unless accomplished by a written amendment signed by both parties. All such amendments or modifications will be made using the appropriate Commonwealth form. Requests for amendments must be made as soon as possible, but no later than ninety (90) days prior to the project end date.

Lobbying

Grantees are advised that the Commonwealth of Pennsylvania prohibits the use of grant funds for lobbying activities.

Maintaining Financial Records

For the purpose of maintaining records and reporting, Grantee must keep a record reflecting all receipts, obligations and disbursements of funds for all activities covered by this Contract.

The Grantee agrees to maintain records until the expiration of a three-year period beginning with the submission of the financial report; or until all audits begun during such three-year period or prior thereto have been completed and findings involving the records have been resolved, whichever is the longer period.

The Grantee agrees to provide for records, which identify the source and application of funds for grant-supported activities. These records must contain information pertaining to grant awards including but not limited to authorizations, obligations, unobligated balances, assets, liabilities, outlays, and income.

The Grantee agrees to maintain effective control over and accountability for all funds, property and other assets. Grantees must adequately safeguard all such assets and must assure that they are used solely for authorized purposes.

The Grantee agrees to provide comparison of actual amounts with budgeted amounts for each grant and must show the relationship of financial information with performance or productivity date, including the production of unit cost information whenever appropriate and required.

The Grantee must establish procedures to minimize the time elapsed between the transfer of funds from the state disbursing office and the disbursement by the Grantee.

The Grantee must maintain accounting records, which are supported by source documentation and properly document matching funds.

The Grantee must provide a systematic method to assure timely and appropriate resolution of audit findings and recommendations.

Nondiscrimination/Sexual Harassment Clause

During the term of the Contract, the Grantee (Contractor) agrees as follows:

- a. In the hiring of any employees for the manufacture of supplies, performance of work, or any other activity required under the Contract or any subcontract, the Contractor, subcontractor or any person acting on behalf of the Contractor or subcontractor shall not by reason of gender, race, creed, or color discriminate against any citizen of this Commonwealth who is qualified and available to perform the work to which the employment relates.
- b. Neither the Contractor nor any subcontractor nor any person on their behalf shall in any manner discriminate against or intimidate any employee involved in the manufacture of supplies, the performance of work or any other activity required under the Contract on account of gender, race, creed, or color.
- c. Contractors and any subcontractors shall establish and maintain a written sexual harassment policy and shall inform its employees of the policy. The policy must contain a notice that sexual harassment will not be tolerated and employees who practice it will be disciplined.
- d. The Contractor shall not discriminate by reason of gender, race, creed, or color against any subcontractor or supplier who is qualified to perform the work to which the Contract relates.
- e. The Contractor and each subcontractor shall furnish all necessary employment documents and records to and permit access to its books, records, and accounts by the contracting officer and the Department of General Services' Bureau of Contract Administration and Business Development for purposes of investigation to ascertain compliance with the provisions of this Nondiscrimination/Sexual Harassment Clause. If the Contractor or any subcontractor does not possess documents or records reflecting the necessary information requested, it shall furnish such information on reporting forms supplied by the contracting officer or the Bureau of Contract Administration and Business Development.
- f. The Contractor shall include the provisions of this Nondiscrimination/Sexual Harassment Clause in every subcontract so that such provisions will be binding upon each subcontractor.

g. The Commonwealth may cancel or terminate the Contract, and all money due or to become due under the Contract may be forfeited for a violation of the terms and conditions of this Nondiscrimination/Sexual Harassment Clause. In addition, the agency may proceed with debarment or suspension and may place the Contractor in the Contractor Responsibility file.

Offset Provision

The Grantee agrees that the Commonwealth may set off the amount of any state tax liability or other debt of the Grantee or its subsidiaries that is owed to the Commonwealth and not being contested on or appear against any payments due to the Grantee under this or any other agreement with the Commonwealth. (Commonwealth Management Directive 215.9 amended dated 4/16/99.)

Payment Schedule and Disposition of Funds

The PHMC will pay to the Grantee the amount indicated on page one of the Contract. Grantee may request 100 percent of the grant award upon execution of the Contract, unless otherwise specified. The Grantee will be provided with a payment request form, which must be signed, dated and returned at the same time that the Contract is returned to the PHMC.

Within approximately eight to twelve weeks, the Grantee will receive a fully executed copy of the Contract. **At this time, work may begin on the project.** The PHMC will initiate payment, in the form of a check, at the earliest possible date. Normally, the Grantee will receive payment within approximately four weeks from the date of receiving the fully executed Contract.

Upon receipt, the Grantee agrees, where possible, to deposit and maintain PHMC funds in an interest bearing account. Disposition of funds from this account, including interest earned, is the responsibility of the Grantee. Interest earned from PHMC funds must be recorded and reported as a part of the detailed statement of income and expenditures required in the final written report. Unused or unexpended funds in the possession of the Grantee must be returned to the PHMC no later than (30) days after the Contract termination date.

Proposal as Public Record

Unless otherwise provided by law, a proposal that results in a PHMC grant becomes part of the record of the transaction and will be available to the public for inspection and duplication. A proposal that does not result in a PHMC grant will be retained by the PHMC and will also be available to the public for inspection and duplication.

Reporting

The Grantee is required to submit to PHMC an interim report for Archives and Records Management, Historic Preservation, Local History, and Museum project grants. The interim report shall be submitted to PHMC using the Internet-based electronic grant application process by the date indicated in Exhibit B.

The Grantee is also required to submit to PHMC a final report no later than the grant termination date. This report shall be submitted using the Internet-based electronic grant application process. A hard copy of the report including all necessary attachments shall also be submitted to PHMC. The hard copy report shall be signed by the Grantee's executive director and president or vice-president and shall be notarized. The final report shall include the following:

1. A description of the activities for which funds have been awarded, including activity dates if applicable;
2. Attendance figures of participants served by the project, if applicable;
3. Photographs documenting the project, if applicable;
4. Copies of all programs, news clippings, reports, National Register forms, survey forms, catalogues, posters, brochures and other printed materials resulting from the project, if applicable; and,
5. A financial summary consisting of a statement of all income and expenses relating to the activities for which funds have been awarded and all unused or unexpended grant funds in the possession of the Grantee at the time of the final report.

Site Visits

The PHMC retains the right to schedule site visits throughout the period of the Contract. These visits are designed to encourage networking with the PHMC, review progress, and determine if the Grantee is having any problems with the grant or requires any special assistance.

Subgrants

The Grantee may not assign, in whole or in part, this Agreement or its rights, duties, obligations or responsibilities hereunder without the prior written consent of PHMC, which consent maybe withheld at the sole and absolute discretion of PHMC. Any assignment consented to by PHMC shall be evidenced by a written assignment agreement executed by the Grantee and its assignee (subgrantee) in which the assignee agrees to be legally bound by all of the terms and conditions of the Agreement and to assume the duties, obligations and responsibilities being assigned.

Termination Provisions

The Commonwealth has the right to terminate this Contract for any of the following reasons. Termination shall be effective upon written notice to the Grantee.

1. **TERMINATION FOR CONVENIENCE:** The Commonwealth shall have the right to terminate this Contract for its convenience if the Commonwealth determines termination to be in its best interest. The Grantee shall be paid for work satisfactorily completed prior to the effective date of the termination, but in no event shall the Grantee be entitled to recover loss of profits.
2. **NONAPPROPRIATION:** The Commonwealth's obligation to make payments during any Commonwealth fiscal year succeeding the current fiscal year shall be subject to availability and appropriation of funds. When funds (state and/or federal) are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal year period, the Commonwealth shall have the right to terminate the Contract. The Grantee shall be reimbursed for the reasonable value of any nonrecurring costs incurred but not amortized in the price of supplies or services delivered under this Contract. Such reimbursement shall not include loss of profit, loss of use of money, or administrative or overhead costs. The reimbursement amount may be paid for many appropriations available for that purpose.
3. **TERMINATION FOR CAUSE:** The Commonwealth shall have the right to terminate this Contract, upon written notice thereof to the Grantee, for Grantee's nonperformance or inadequate performance. The Commonwealth shall also have the right, upon written notice to the Grantee, to terminate this contract for other cause as specified in this Contract or by law. If it is later determined that the Commonwealth erred in terminating the Contract for cause, then, at the Commonwealth's discretion, the Contract shall be deemed to have been terminated for convenience under paragraph 1, Termination for Convenience, above.