

REQUEST FOR STATE BOARD WAIVER

THIS IS A PUBLIC DOCUMENT

Date: January 19, 2017

Name of Board Member or Former Board Member: Susan Aguilar

Name of Board, Authority or Commission: South Dakota Board of Education

Brief explanation of your potential conflict of interest:

My husband is on the board of directors of Lutheran Social Services (LSS) and LSS has two contracts with the South Dakota Department of Labor and Regulation (DLR) which could fall within the "subject matter" of the South Dakota Board of Education.

Brief explanation of the current or anticipated business transaction with a State agency or with a political subdivision of the State and your role in the transaction:

I have no role in the transaction, nor does my husband. I am requesting a waiver out of an abundance of caution because he sits on the LSS board of directors.

Brief explanation of the essential terms of the contract or transaction:

The contracts are attached as Exhibits A and B. These agreements are renewals of previous contracts. The South Dakota Board of Education granted a waiver for the previous contracts on June 20, 2016. Contract 17-AB-005 provides grant funds for the Adult Education and Literacy (AEL) program, at least part of which relates to career readiness and obtaining a GED credential. The amount of the contract is \$141,251.45.

Contract 17-AB-006 provides grant funds for various literacy and civics projects and is for the amount of \$29,500.00.

Brief explanation of why you believe a waiver should be granted:

I played no role in the award of this contract, and my household does not receive income or benefit as a result of these contracts. There is no conflict of interest as a result of the contract. In addition, the services provided under the contract serve the public interest.

Signature of Person Requesting Waiver: _____

AGREEMENT BETWEEN
THE SOUTH DAKOTA DEPARTMENT OF LABOR AND REGULATION
AND
LUTHERAN SOCIAL SERVICES OF SOUTH DAKOTA
705 EAST 41ST STREET, SUITE 200; SIOUX FALLS, SD 57105-6048

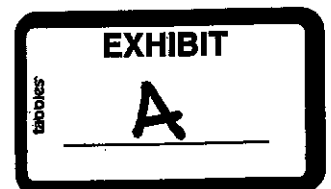
Contract Number

This agreement establishes the general responsibilities and procedures for the above named parties for administration and delivery of the Adult Education and Literacy (AEL) Program. This Agreement is effective from July 1, 2016, through June 30, 2017.

This grant-award's extension is the result of a competitive request-for-proposal process which began March 21, 2012. Programs are reviewed each year; annual grant-awards are contingent upon the availability of federal and state funds, as well as upon compliance with state and federal regulations.

I. GENERAL RESPONSIBILITIES

- A. It shall be the responsibility of Lutheran Social Services of South Dakota, hereinafter referred to as the Sub-recipient, to
1. Identify, recruit, and retain eligible adults for adult education instruction, services, and activities under the Adult Education and Family Literacy Act (as Title II of the Workforce Innovation and Opportunity Act of 2014 [WIOA]).
 2. Consider all Department of Labor and Regulation Local Office referrals as possible recruitment opportunities.
 3. Ensure all eligible AEL participants have signed the *Release of Information* section of the Student Intake Form.
 4. Determine the instructional level of the student through standardized assessment using TABE 9&10, BEST Plus 2.0, or BEST Literacy instruments.
 5. Determine, in coordination with the adult student, instructional goals for employment, postsecondary education or job training, and/or completion of an approved High School Equivalency credential; additionally, consider student status and goal-setting processes for secondary outcome measures (under the National Reporting System).
 6. Provide instructional activities in one or more of the following categories:
 - a. Adult basic education
 - b. Adult secondary education
 - c. Workplace literacy/job preparedness
 - d. English Language Acquisition/Integrated English Literacy and Civics
 - e. Family literacy



7. Administer timely post-test assessments to document educational gain per publisher's respective guidelines and requirements. The Sub-recipient's post-test target rate is a minimum of 60%.
8. Meet or exceed the State's negotiated performance measures as indicated in the following table.

PERFORMANCE MEASURE INDICATORS	PY16-17 GOAL	
Core Outcome Measure: Measurable Skill Gains		
Beginning Literacy ABE	57%	
Beginning Basic Education ABE	43%	
Low Intermediate ABE	36%	
High Intermediate ABE	32%	
Low Adult Secondary Education ASE	46%	
Beginning Literacy ESL	37%	
Low Beginning ESL	53%	
High Beginning ESL	53%	
Low Intermediate ESL	47%	
High Intermediate ESL	47%	
Advanced ESL	39%	
Statewide Targets for EFL Gain by Program Type		
Adult Basic Education (ABE + ASE)	37%	471
English Language Acquisition	44%	296
Aggregate Measurable Skills Gain	40%	767

9. Collect and enter all necessary data into the electronic Management Information System (LACES NexGen) by the 7th of each month for the previous month's activities and retain the supporting documentation in the permanent student file.
10. Establish and maintain student hard copy files according to South Dakota Department of Labor and Regulation (SDDLRL) AEL policy. The hard copy files shall be retained for three years after the final year in a multi-year grant cycle, as set forth in the Office of Management and Budget's Uniform Administrative Requirements (§200.333); these files include student and financial records.
11. Refer all learners that will, upon program exit/completion, populate the *Entered Employment* cohort to the DLR Local Office; refer all other learners to SDDLRL Local Office when appropriate (support services, National Career Readiness Certificate, Job Search Assistance Program, Work Experience, job training, Wagner-Peyser, WIOA eligibility, etc.) to support other cohort-goals of *Retained Employment*, *Receipt of Secondary School Diploma*, and *Entered Postsecondary Education or Training*.
12. Participate in professional development opportunities provided by the state AEL program. Attendance of at least one data specialist from each program is required at all LACES NexGen trainings.

13. Provide AEL follow-up services (survey/data matching) for all students as defined by the National Reporting System.
14. Provide reports of progress as requested and required by SDDLRL; these reports may be based upon, but not limited to, the following: Sub-recipient's Statement of Need, Goals and Objectives, Activity Plan, and Evaluation Plan as detailed within the Sub-recipient's grant application.
15. Comply with the general conditions and assurances signed and submitted to SDDLRL. The Sub-recipient is also responsible to follow the policies set forth in the AEL Policy Manual.
16. Observe copyrights and provide for all necessary assessment administrations, instruments, test booklets, sundry forms, answer sheets, and any other required instructional material/supply either from the award monies or as part of the local match; the assessment materials and instructional supplies are the Sub-recipient's responsibility.
17. Protect the privacy, security, and confidentiality of WIOA-related participant data as *Personally Identifiable Information*. Sub-recipients [outside the state email system] will use encryption software when transmitting sensitive data (e.g., Social Security Numbers, Public Assistance Status, Disabilities, etc.) to the State central office, DLR Local Offices, and other parties involved in these WIOA-supported activities.
18. Prepare and provide documentation that is requested for programmatic monitoring; monitoring may include, but is not limited to, the following: conference calls, video conferencing, webinars, desk monitoring, and/or site visits.
19. Expend allocated funds according to guidance in Section II of this agreement.

B. It shall be the responsibility of SDDLRL to

1. Provide funding for operation of WIOA Title II programming in the amounts listed in Section II for the period of July 01, 2016, through June 30, 2017.
2. Provide technical assistance to Sub-recipient's administrators and staff on system knowledge, data management, adult education methodology (teacher quality and effectiveness), assessment, and accountability.
3. Provide DLR Local Office support services to eligible WIOA participants as appropriate and make referrals to the Sub-recipient for AEL services; DLR Local Offices will also consider referrals from the Sub-recipient for enrollment into WIOA programming.
4. Assist the Sub-recipient with follow-up services for participants.
5. Conduct programmatic monitoring, as scheduled by SDDLRL, to review, assess, and evaluate program services, data quality, management of the grant award, as well as

to identify specific needs for the provision of technical assistance and/or corrective action.

II. FISCAL RESPONSIBILITIES

A. It shall be the responsibility of the Sub-recipient to

1. Expend funds in accordance with federal regulations, SDDL R rules, this agreement, and the *FY2017 WIOA Title II Budget Prospectus*.

Federal—AEFLA (CFDA 84.002)	Federal: IELCE	State General Funds	Total Award Amount	Local Match Target	Project's Grand Total
\$42,000.00	\$63,051.45	\$36,200.00	\$141,251.45	\$11,500.00	\$152,751.45

2. The project's funding total [through 30 June 2017] is not to exceed \$141,251.45.
3. Maintain sufficient records to provide an accountability of all funds expended under this agreement. Documents that support reimbursement vouchers must be retained.
4. Provide AEFLA-related instruction, activities, and services free of charge to adult education participants. No *Materials & Supplies* fees, class fees, or tuition may be charged.
5. Establish and maintain internal controls as required by the Federal OMB Uniform Guidance (2 CFR 200) for this grant.
6. Submit the most current single audit and/or the most current program-specific audit upon SDDL R's request.
7. Submit monthly vouchers for reimbursement per the SDDL R policies and procedures.
8. Refund unexpended advancements. These monies are subject to re-allotment and must be refunded to SDDL R at the end of the program year.
9. Understand that non-performance of mutually-agreed-upon instruction, services, and/or activities may result in immediate termination of this agreement.

III. MISCELLANEOUS

- A. Sub-recipient agrees to indemnify and hold the State of South Dakota ("State", any reference thereto also encompasses SDDL R), its officers, agents and employees, harmless from and against any and all actions, suits, damages, liability or other proceedings that may arise as the result of performing services hereunder. This section does not require Sub-recipient to be responsible for or defend against claims or

damages arising solely from errors or omissions of the State, its officers, agents, or employees.

- B. While performing services hereunder, Sub-recipient is an independent contractor and not an officer, agent, or employee of the State of South Dakota.
- C. This Agreement depends upon the continued availability of appropriated funds and expenditure authority from the Legislature for this purpose. If for any reason the Legislature fails to appropriate funds or grant expenditure authority, or funds become unavailable by operation of law or federal funds reductions, this Agreement will be terminated by the State. Termination for any of these reasons is not a default by the State nor does it give rise to a claim against the State.
- D. This Agreement may not be assigned without the express prior written consent of the State. This Agreement may not be amended except in writing, which writing shall be expressly identified as a part hereof, and be signed by an authorized representative of each of the parties hereto.
- E. This Agreement shall be governed by and construed in accordance with the laws of the State of South Dakota. Any lawsuit pertaining to or affecting this Agreement shall be venued in Circuit Court, Sixth Judicial Circuit, Hughes County, South Dakota.
- F. Sub-recipient will comply with all federal, state and local laws, regulations, ordinances, guidelines, permits and requirements applicable to providing services pursuant to this Agreement, and will be solely responsible for obtaining current information on such requirements.
- G. This Agreement may be terminated by either party hereto upon 30 days written notice. In the event Sub-recipient breaches any of the terms or conditions hereof, this Agreement may be terminated by the State at any time with or without notice. If termination for such a default is effected by the State, any payments due to Sub-recipient at the time of termination may be adjusted to cover any additional costs to the State because of Sub-recipient's default. Upon termination the State may take over the work and may award another party an agreement to complete the work under this Agreement. If after the State terminates for a default by Sub-recipient it is determined that Sub-recipient was not at fault, then Sub-recipient shall be paid for eligible services rendered and expenses incurred up to the date of termination.
- H. Sub-recipient, at all times during the term of this Agreement, shall obtain and maintain in force insurance coverage of the types and with the limits as follows:
 - 1. Commercial General Liability Insurance:

Sub-recipient shall maintain occurrence based commercial general liability insurance or equivalent form with a limit of not less than \$1 million for each occurrence. If such insurance contains a general aggregate limit it shall apply separately to this Agreement or be no less than two times the occurrence limit.

2. Business Automobile Liability Insurance:

Sub-recipient shall maintain business automobile liability insurance or equivalent form with a limit of not less than \$500,000.00 for each accident. Such insurance shall include coverage for owned, hired, and non-owned vehicles.

3. Worker's Compensation Insurance:

Sub-recipient shall procure and maintain workers' compensation and employers' liability insurance as required by South Dakota law.

Before beginning work under this Agreement, Sub-recipient shall furnish the State with properly executed Certificates of Insurance which shall clearly evidence all insurance required in this Agreement and which provide that such insurance may not be canceled, except on 30 days' prior written notice to the State. Sub-recipient shall furnish copies of insurance policies if requested by the State.


- I. The Sub-recipient agrees that if the State incurs any expenses on behalf of the sub-recipient as a result of administering this Agreement that such expenses may be deducted from the funds Sub-recipient is to receive from the State pursuant to this Agreement as set out in Section II.
- J. The Sub-recipient agrees to conduct a single audit report (2 CFR 200.501) and submit it to the State if they determine they are spending \$750,000.00 or more in federal funds from grant awards in total from all sources during a fiscal year, which is the period from July 1 to June 30. The audit must be completed following the fiscal year in which it is determined the Sub-recipient has spent \$750,000 or more in federal funds from grant awards.
- K. The Sub-recipient agrees to notify the State if any of its employees, officers or agents are earning in excess of \$183,000 annually are being paid fully or partially from grant funds received from the State, including if the employee costs are considered indirect. Sub-recipient must provide in writing the name of the employee, officer or agent, position name, amount of annual earnings, amount of annual earnings being funded by the grant.
- L. The Sub-recipient agrees to meet all closeout requirements for the grant, including the submission of all performance, financial, and other reports as specified in this Agreement. The Sub-recipient agrees to liquidate all grant funds received within 90 days of closeout.
- M. The Sub-recipient agrees to notify the State when new personnel are hired and when they have made substantial changes to their systems and processes which impact the execution of this Agreement.

- N. This Agreement may not be assigned without the express prior written consent of the State. This Agreement may not be amended except in writing, which writing shall be expressly identified as a part hereof, and be signed by an authorized representative of each of the parties hereto. The Sub-recipient agrees to amend this Agreement if necessary in order to comply with new requirements of the State Board of Internal Control and to new requirements of 2 CFR 200 - Uniform Administrative Requirements, Cost Principles, and Audit Requirements For Federal Awards Grant Guidance.
- O. The Sub-recipient will perform those services described in this Agreement and will comply with the requirements set out in Exhibit A, which is attached hereto and by this reference incorporated herein.
- P. The Sub-recipient agrees that there is no conflict of interest prohibiting the parties from entering into this Agreement as indicated on the completed Conflict of Interest Decision Matrix, which is attached hereto as Exhibit B and by this reference incorporated herein. If Sub-recipient has a conflict of interest policy, it shall be attached hereto as Exhibit C and by this reference incorporated herein.
- Q. The Sub-recipient agrees to inform the State if any personal property, including but not limited to if a home office or personal vehicle is used in the performance of obligations under this Agreement and will provide any additional information to the State upon request.
- R. The Sub-recipient agrees to comply with the State of South Dakota's conflict of interest policy and agrees to notify the State immediately if Sub-recipient becomes aware of a conflict of interest or a potential conflict of interest. The Sub-recipient agrees to meet any new conflict of interest requirements as they become adopted by the State Board of Internal Control.
- S. By completing the Attestation Form, which is attached hereto as Exhibit D, the Sub-recipient attests to meeting the requirements of SDCL 1-56-1.

SIGNATURES

The above named party agrees to operate an Adult Education and Family Literacy Program and/or Activity under the auspices of the Adult Education and Literacy Program, Department of Labor and Regulation for the State of South Dakota as prescribed in the State Plan for Adult Education and the Sub-recipient's proposal. The awarding of Adult Education and Family Literacy Act funds is contingent upon the receipt of federal funding by the Department of Labor and Regulation.

I declare and affirm under the penalties of perjury that the claim information has been examined by me, and to the best of my knowledge and belief, is in all things true and correct.



Authorized Signature

7/25/16

Date

46-0224731

Federal Tax Identification Number



Marcia Hultman, Cabinet Secretary
Department of Labor and Regulation

9.27.16

Date

Pass-Through Entity Requirements

Exhibit A

State Agency Department of Labor and Regulation
Program Name WIOA Title II
CFDA # 84.002
Name of Entity Receiving Funds Lutheran Social Services' Center for New Americans
Contract / Agreement Number _____
Funding Source(s) Federal WIOA Title II—Adult Education and Family Literacy Act (AEFLA)
RFP Number (if applicable) #26122
CFR # 200.331

§200.331 Requirements for Pass-Through Entities

All pass-through entities must:

- (a) Ensure that every subaward is clearly identified to the subrecipient as a subaward and includes the following information at the time of the subaward and if any of these data elements change, include the changes in subsequent subaward modification. When some of this information is not available, the pass-through entity must provide the best information available to describe the Federal award and subaward.

(1) Federal Award Identification:

(i) Subrecipient name (which must match the name associated with its unique entity identifier):

Lutheran Social Services' Center for New Americans

(ii) Subrecipient's unique entity identifier: 46-0224731

(iii) Federal Award Identification Number (FAIN): V002A150042

(iv) Federal Award Date (see §200.39 Federal award date) of award to the recipient by the Federal agency: 01 July 2016

(v) Subaward Period of Performance Start and End Date: 01 July 2016 through 30 June 2017

(vi) Amount of Federal Funds Obligated by this action by the pass-through entity to the subrecipient: \$141,251.45 WIOA Title II Instructional

(vii) Total Amount of Federal Funds Obligated to the subrecipient by the pass-through entity including the current obligation: \$141,251.45 AEFLA Instructional; \$30,000.00 AEFLA Leadership and Administration funds for Title II's English Language Acquisition/IELCE Professional Development

(viii) Total Amount of the Federal Award committed to the subrecipient by the pass-through entity: \$171,251.45

(ix) Federal award project description, as required to be responsive to the Federal Funding Accountability and Transparency Act (FFATA): Adult Education—State Administered

(x) Name of Federal awarding agency, pass-through entity, and contact information for awarding official of the Pass-through entity: United States Department of Education; South Dakota Department of Labor and Regulation; McEntaffer, Bill <Bill.McEntaffer@state.sd.us>

(xi) CFDA Number and Name; the pass-through entity must identify the dollar amount made available under each Federal award and the CFDA number at time of disbursement: #84.002; Adult Education—Basic Grants to States; \$1,178,137.00

(xii) Identification of whether the award is R&D: N/A

(xiii) Indirect cost rate for the Federal award (including if the de minimis rate is charged per §200.414 Indirect (F&A) costs): 5.22%

For items below enter requirements or list specific section of grant agreement that includes these requirements.

(2) All requirements imposed by the pass-through entity on the subrecipient so that the Federal award is used in accordance with Federal statutes, regulations and the terms and conditions of the Federal award:
§ II.A of agreement

(3) Any additional requirements that the pass-through entity imposes on the subrecipient in order for the pass-through entity to meet its own responsibility to the Federal awarding agency including identification of any required financial and performance reports: § I.A of agreement

(4) An approved federally recognized indirect cost rate negotiated between the subrecipient and the Federal Government or, if no such rate exists, either a rate negotiated between the pass-through entity and the subrecipient (in compliance with this part), or a de minimis indirect cost rate as defined in §200.414 Indirect (F&A) costs, paragraph (f): N/A

(5) A requirement that the subrecipient permit the pass-through entity and auditors to have access to the subrecipient's records and financial statements as necessary for the pass-through entity to meet the requirements of this part: § I.A.18 of agreement

(6) Appropriate terms and conditions concerning closeout of the subaward: § II.A of agreement

§200.501 Audit requirements

A non-federal entity that expends \$750,000 or more of Federal awards during the fiscal year is subject to the audit requirements of 2 CFR 200.501 §II.A.6 of agreement

State Agency Review / Approval _____

(Enter name of person approving)

(Date)

Comments:

Per SDCL 1-56-10: The grant agreement for each grant, pass-through grant, or any other award granted by a state agency to a non-state agency after July 1, 2016 shall include an attestation by the award recipient or subrecipient.

The below attestation can be copied into the grant agreement form created by the agency.

State of South Dakota Grant Recipient or Subrecipient Attestation
--

By completing this form, you, the recipient or subrecipient, attest to meeting the following requirements per SDCL 1-56-10:

- (1) A conflict of interest policy is enforced within the recipient's or subrecipient's organization;
- (2) The Internal Revenue Service Form 990 has been filed, if applicable, in compliance with federal law, and is displayed immediately after filing on the recipient's or subrecipient's website;
- (3) An effective internal control system is employed by the recipient's or subrecipient's organization; and
- (4) If applicable, the recipient or subrecipient is in compliance with the federal Single Audit Act, in compliance with § 4-11-2.1, and audits are displayed on the recipient's or subrecipient's website.

If you, the recipient or subrecipient, have concerns regarding the requirements listed above, please contact your state agency representative before signing this form.

Printed Name of Person Completing Form: Rebecca Kiesow Knudsen

Printed Title of Person Completing Form: VP, Community Services

Signature of Person Completing Form:  Date: 7/25/16

Agreement Between

**South Dakota
Department of Labor & Regulation
700 Governors Drive
Pierre, SD 57501**

and

**Lutheran Social Services
of South Dakota
705 East 41st Street, Suite 200
Sioux Falls, SD 57105-6048**

This Agreement establishes coordination of the *Special Project: English Language Acquisition's Professional Development Coordination* between Lutheran Social Services of South Dakota (LSS) and the South Dakota Department of Labor and Regulation (SDDLRL). The intent of this agreement is to fund the continued administration and delivery of WIOA Title II professional development trainings, teacher inductions, and initiatives for English Literacy and Civics programming under AEFLA [as outlined by LSS in their formal proposal]. This Agreement shall commence on July 01, 2016, and shall terminate at midnight on June 30, 2017, or upon completion of the project, whichever occurs first, unless sooner terminated pursuant to the terms hereof. By their signatures set forth below, the parties hereto agree as follows:



- A. It shall be the responsibility of LSS to:
1. Provide for and/or arrange the Summer Summit 2016, English Language Instructor Development Program, BEST Plus 2.0 Administration Training, Career Pathways initiatives, Professional Learning Communities, College and Career Readiness Standards for Adult Education, provider outreach, ESL Competency Checklist Pilot Program, Action Research Symposium, statewide classroom observation, and other sundry trainings [as part of the State's ELA/IELCE Professional Development Plan].
 2. Prepare the student/presenter materials, manage contracts and payments with venues and presenters, process documentation for trainings' college credit or CEUs, disseminate information, maintain an updated PD calendar, post resources, collect evaluations, as well as transact participant reimbursements and honoraria.
 3. Submit a report summarizing PY2016-17 Professional Development for English Language Acquisition under AEFLA; this report should address the numbers served for each project, as well as any challenges, promising practices, and required follow-up.
- B. It shall be the responsibility of SDDLRL to:
1. Provide funding to support the conferences, trainings, teacher inductions, and Professional Development opportunities as outlined in the Center for New Americans' *English Language Acquisition Professional Development Coordination* proposal.
- C. Fiscal:
1. SDDLRL is providing funding for this professional development which will be paid from AEFLA's *IELCE Leadership*, *ABE Leadership*, and *ABE Administration* funds; this agreement shall not exceed \$29,500.00. LSS must submit all pertinent receipts and invoices related to the administration of this project.
 2. Payment will be made consistent with SDCL ch. 5-26.
- D. This Agreement depends upon the continued availability of appropriated funds and expenditure authority from the Legislature for this purpose. If for any reason the Legislature fails to appropriate funds or grant expenditure authority, or funds become unavailable by operation of law or federal funds reductions, this Agreement will be terminated by the State. Termination for any of these reasons is not a default by the State nor does it give rise to a claim against the State.

EXHIBIT

B

- E. This Agreement shall be governed by and construed in accordance with the laws of the State of South Dakota. Any lawsuit pertaining to or affecting this Agreement shall be venued in Circuit Court, Sixth Judicial Circuit, Hughes County, South Dakota.
- F. LSS will comply with all federal, state and local laws, regulations, ordinances, guidelines, permits and requirements applicable to providing services pursuant to this Agreement, and will be solely responsible for obtaining current information on such requirements.
- G. This Agreement may be terminated by either party hereto upon 30 days written notice. In the event LSS breaches any of the terms or conditions hereof, this Agreement may be terminated by the State at any time with or without notice. If termination for such a default is effected by the State, any payments due to LSS at the time of termination may be adjusted to cover any additional costs to the State because of LSS's default. Upon termination the State may take over the work and may award another party an agreement to complete the work under this Agreement. If after the State terminates for a default by LSS it is determined that LSS was not at fault, then LSS shall be paid for eligible services rendered and expenses incurred up to the date of termination.
- H. LSS, at all times during the term of this Agreement, shall obtain and maintain in force insurance coverage of the types and with the limits as follows:
1. **Commercial General Liability Insurance:**
LSS shall maintain occurrence based commercial general liability insurance or equivalent form with a limit of not less than \$1 million for each occurrence. If such insurance contains a general aggregate limit it shall apply separately to this Agreement or be no less than two times the occurrence limit.
 2. **Business Automobile Liability Insurance:**
LSS shall maintain business automobile liability insurance or equivalent form with a limit of not less than \$500,000.00 for each accident. Such insurance shall include coverage for owned, hired, and non-owned vehicles.
 3. **Worker's Compensation Insurance:**
LSS shall procure and maintain workers' compensation and employers' liability insurance as required by South Dakota law.
Before beginning work under this Agreement, LSS shall furnish the State with properly executed Certificates of Insurance which shall clearly evidence all insurance required in this Agreement and which provide that such insurance may not be canceled, except on 30 days' prior written notice to the State. LSS shall furnish copies of insurance policies if requested by the State.
- I. LSS agrees that if the State incurs any expenses on behalf of LSS as a result of administering this Agreement that such expenses may be deducted from the funds LSS is to receive from the State pursuant to this Agreement as set out in Section C.
- J. LSS agrees to conduct a single audit report (2 CFR 200.501) and submit it to the State if they determine they are spending \$750,000.00 or more in federal funds from grant awards in total from all sources during a fiscal year, which is the period from July 1 to June 30. The audit must be completed following the fiscal year in which it is determined LSS has spent \$750,000 or more in federal funds from grant awards.
- K. LSS agrees to notify the State if any of its employees, officers or agents are earning in excess of \$183,000 annually are being paid fully or partially from grant funds received from the State, including if the employee costs are considered indirect. LSS must provide in writing the name of the employee, officer or agent, position name, amount of annual earnings, amount of annual earnings being funded by the grant.

- L. LSS agrees to meet all closeout requirements for the grant, including the submission of all performance, financial, and other reports as specified in this Agreement. The LSS agrees to liquidate all grant funds received within 90 days of closeout.
- M. LSS agrees to notify the State when new personnel are hired and when they have made substantial changes to their systems and processes which impact the execution of this Agreement.
- N. This Agreement may not be assigned without the express prior written consent of the State. This Agreement may not be amended except in writing, which writing shall be expressly identified as a part hereof, and be signed by an authorized representative of each of the parties hereto. LSS agrees to amend this Agreement if necessary in order to comply with new requirements of the State Board of Internal Control and to new requirements of 2 CFR 200 - Uniform Administrative Requirements, Cost Principles, and Audit Requirements For Federal Awards Grant Guidance.
- O. LSS will perform those services described in this Agreement and will comply with the requirements set out in Exhibit A, which is attached hereto and by this reference incorporated herein.
- P. LSS agrees that there is no conflict of interest prohibiting the parties from entering into this Agreement as indicated on the completed Conflict of Interest Decision Matrix, which is attached hereto as Exhibit B and by this reference incorporated herein. If LSS has a conflict of interest policy, it shall be attached hereto as Exhibit C and by this reference incorporated herein.
- Q. LSS agrees to inform the State if any personal property, including but not limited to if a home office or personal vehicle is used in the performance of obligations under this Agreement and will provide any additional information to the State upon request.
- R. LSS agrees to comply with the State of South Dakota's conflict of interest policy and agrees to notify the State immediately if LSS becomes aware of a conflict of interest or a potential conflict of interest. LSS agrees to meet any new conflict of interest requirements as they become adopted by the State Board of Internal Control.
- S. By completing the Attestation Form, which is attached hereto as Exhibit D, LSS attests to meeting the requirements of SDCL 1-56-1.
- T. Authorizing signature. By signature hereto both parties agree to the terms of this Agreement.

South Dakota Department of Labor & Regulation	Lutheran Social Services of South Dakota
	
Marcia Hultman, Cabinet Secretary	Rebecca Kiesow-Knudsen, Vice President
Date: 9/27/16	Date: 7/25/16

Pass-Through Entity Requirements

Exhibit A

State Agency Department of Labor and Regulation
Program Name WIOA Title II
CFDA # 84.002
Name of Entity Receiving Funds Lutheran Social Services' Center for New Americans
Contract / Agreement Number _____
Funding Source(s) Federal WIOA Title II—Adult Education and Family Literacy Act (AEFLA)
RFP Number (if applicable) #26122
CFR # 200.331

§200.331 Requirements for Pass-Through Entities

All pass-through entities must:

(a) Ensure that every subaward is clearly identified to the subrecipient as a subaward and includes the following information at the time of the subaward and if any of these data elements change, include the changes in subsequent subaward modification. When some of this information is not available, the pass-through entity must provide the best information available to describe the Federal award and subaward.

(1) Federal Award Identification:

(i) Subrecipient name (which must match the name associated with its unique entity identifier):

Lutheran Social Services' Center for New Americans

(ii) Subrecipient's unique entity identifier: 46-0224731

(iii) Federal Award Identification Number (FAIN): V002A160042

(iv) Federal Award Date (see §200.39 Federal award date) of award to the recipient by the Federal agency: 01 July 2016

(v) Subaward Period of Performance Start and End Date: 01 July 2016 through 30 June 2017

(vi) Amount of Federal Funds Obligated by this action by the pass-through entity to the subrecipient: \$29,500.00 WIOA Title II Leadership/Administration (IELCE & State Grant)

(vii) Total Amount of Federal Funds Obligated to the subrecipient by the pass-through entity including the current obligation: \$141,251.45 AEFLA Instructional; \$29,500.00 AEFLA Leadership and Administration funds for Title II's English Language Acquisition/IELCE Professional Development

(viii) Total Amount of the Federal Award committed to the subrecipient by the pass-through entity: \$170,751.45

(ix) Federal award project description, as required to be responsive to the Federal Funding Accountability and Transparency Act (FFATA): Adult Education—State Administered

(x) Name of Federal awarding agency, pass-through entity, and contact information for awarding official of the Pass-through entity: United States Department of Education; South Dakota Department of Labor and Regulation; McEntaffer, Bill <Bill.McEntaffer@state.sd.us>

(xi) CFDA Number and Name; the pass-through entity must identify the dollar amount made available under each Federal award and the CFDA number at time of disbursement: #84.002; Adult Education—Basic Grants to States; \$1,178,137.00

(xii) Identification of whether the award is R&D: N/A

(xiii) Indirect cost rate for the Federal award (including if the de minimis rate is charged per §200.414 Indirect (F&A) costs): 5.22%

For items below enter requirements or list specific section of grant agreement that includes these requirements.

(2) All requirements imposed by the pass-through entity on the subrecipient so that the Federal award is used in accordance with Federal statutes, regulations and the terms and conditions of the Federal award: § II.A of AEFLA agreement

(3) Any additional requirements that the pass-through entity imposes on the subrecipient in order for the pass-through entity to meet its own responsibility to the Federal awarding agency including identification of any required financial and performance reports: § I.A of AEFLA agreement

(4) An approved federally recognized indirect cost rate negotiated between the subrecipient and the Federal Government or, if no such rate exists, either a rate negotiated between the pass-through entity and the subrecipient (in compliance with this part), or a de minimis indirect cost rate as defined in §200.414 Indirect (F&A) costs, paragraph (f): N/A

(5) A requirement that the subrecipient permit the pass-through entity and auditors to have access to the subrecipient's records and financial statements as necessary for the pass-through entity to meet the requirements of this part: § I.A.18 of AEFLA agreement

(6) Appropriate terms and conditions concerning closeout of the subaward: § II.A of AEFLA agreement

§200.501 Audit requirements

A non-federal entity that expends \$750,000 or more of Federal awards during the fiscal year is subject to the audit requirements of 2 CFR 200.501 §II.A.6 of AEFLA agreement

State Agency Review / Approval _____

(Enter name of person approving)

(Date)

Comments:

Per SDCL 1-56-10: The grant agreement for each grant, pass-through grant, or any other award granted by a state agency to a non-state agency after July 1, 2016 shall include an attestation by the award recipient or subrecipient.

The below attestation can be copied into the grant agreement form created by the agency.

State of South Dakota Grant Recipient or Subrecipient Attestation

By completing this form, you, the recipient or subrecipient, attest to meeting the following requirements per SDCL 1-56-10:

- (1) A conflict of interest policy is enforced within the recipient's or subrecipient's organization;
- (2) The Internal Revenue Service Form 990 has been filed, if applicable, in compliance with federal law, and is displayed immediately after filing on the recipient's or subrecipient's website;
- (3) An effective internal control system is employed by the recipient's or subrecipient's organization; and
- (4) If applicable, the recipient or subrecipient is in compliance with the federal Single Audit Act, in compliance with § 4-11-2.1, and audits are displayed on the recipient's or subrecipient's website.

If you, the recipient or subrecipient, have concerns regarding the requirements listed above, please contact your state agency representative before signing this form.

Printed Name of Person Completing Form: Rebecca Kiesow Knudsen

Printed Title of Person Completing Form: VP, Community Services

Signature of Person Completing Form:  Date: 7/25/16