



427 SOUTH CHAPELLE
C/O 500 EAST CAPITOL
PIERRE SD 57501-5070
(605) 773-3595

MARTIN L. GUINDON, CPA
AUDITOR GENERAL

To: Government Operations and Audit Committee (GOAC)

From: Tim Flannery, State Government Audit Manager

Re: Legislative Audit follow-up information from the October 5 & 6, 2017 GOAC meeting

At the request of the Committee at the October 5 & 6, 2017 meeting, Legislative Audit has prepared additional information relating to the first GEAR UP grant, which ran from approximately 2005 through 2011. In particular, the Committee asked if Legislative Audit had audited Oceti Sakowin Education Consortium (OSEC).

For the first GEAR UP grant, the State entered into agreements with OSEC. According to filings with the Secretary of State (SDSOS), this organization was incorporated as a domestic nonprofit in January 2003 under the name Oceti Sakowin Distance Education Consortium Incorporated (OSDEC). The last annual statement was filed with the SDSOS in 2012. Another entity with a similar name, Oceti Sakowin Education Consortium, was incorporated in April 2011. Scott Westerhuis was the registered agent for both of these entities.

The objectives of our Special Review of the Mid Central Educational Cooperative (MCEC) were to determine whether funds received by MCEC had been misappropriated, whether improper payments were made, whether funds were adequately accounted for and expenditures of those funds were properly supported by documentation. As part of the Special Review of the MCEC, we looked at records made available to us at the MCEC. The objectives of our Special Review of the MCEC did not include audits of OSEC/OSDEC or the first GEAR UP grant. Thus, Legislative Audit did not audit contracts between the South Dakota Department of Education (SDDOE) and the OSEC/OSDEC relating to the first GEAR UP grant.

However, as part of a court order, Legislative Audit was given access to OSEC/OSDEC records obtained by the Division of Criminal Investigation (DCI). This included OSEC/OSDEC bank statements and computerized accounting records. During our Special Review, we identified certain financial transactions between MCEC and OSEC/OSDEC that occurred going back to 2007. The results of our review of financial records relating to business activity between MCEC and OSEC/OSDEC have been reported in the Special Review Report.

At the request of the Committee, Legislative Audit has gathered the following attached information:

- Federal expenditures of the first GEAR UP grant
- Available agreements between the SDDOE and OSEC from the time period of 2008 to 2011. These agreements between the SDDOE and OSEC name MCEC as the fiscal agent for OSEC.

Summary of SDDOE Expenditures for the First GEAR UP Grant							
From Federal Fiscal Years 2006 - 2011							
Prepared by Legislative Audit for GOAC							
Paid To	FFY06	FFY07	FFY08	FFY09	FFY10	FFY11	Grand Total
ACADEMY FOR EDUCATIONAL DEV	39,723.30						39,723.30
DAKOTAMART INC					54.00		54.00
KNEIP COFFEE SHOP					26.15		26.15
KUHN, BRINDA		32,500.00	32,500.00	48,744.00	5,416.00		119,160.00
BC KUHN EVALUATION LLC					111,939.00	21,669.00	133,608.00
NATIONAL COUNCIL FOR COMMUNITY & EDUCATION PARTNERSHIPS		90.00	690.00				780.00
OCETI SAKOWIN DIST EDUC CONS	479,062.26	1,745,810.83	1,210,197.73	708,404.92	2,373,724.74	391,732.21	6,908,932.69
PIER347					119.00		119.00
	518,785.56	1,778,400.83	1,243,387.73	757,148.92	2,491,278.89	413,401.21	7,202,403.14
Other transactions without Vendor # - for example: payroll, central services, expenditure corrections, etc.	633,258.09	(626,455.94)	(90,135.95)	(217,997.58)	1,235.68	158.00	(299,937.70)
Total Federal GU Expenditures	1,152,043.65	1,151,944.89	1,153,251.78	539,151.34	2,492,514.57	413,559.21	6,902,465.44
Purpose: To provide the federal expenditures of the first GEAR Up grant.							
Source: State's Accounting System							

DEPARTMENT OF EDUCATION
STATE OF SOUTH DAKOTA
GRANT AGREEMENT
BETWEEN

(Oceti Sakowin Education Consortium)		(Office of Finance and Management)
(PO Box 731)	AND	(700 Governors Drive)
(Kyle, SD 57752)		(Pierre, SD 57501-2291)
(Hereinafter referred to as Grantee)		(Hereinafter referred to as State)

The State hereby enters into a Grant Agreement with the Grantee.

I. THE GRANTEE:

A. The project period on this agreement commences September 1, 2007 and shall end August 31, 2008.

B. The Purpose of the agreement is to:

Implement the State's Gaining Early Awareness and Readiness for Undergraduate Programs (SD GEAR UP) program, as authorized under P.L. 105-244, Title IV, Part A, Subpart 2 Chapter 2 of the Higher Education Act of 1965, as amended.

C. The Grantee agrees to perform the following activities:

1. Develop and deliver Middle School Summer Transition Workshops targeting 490 7th grade students on eight (8) reservations and in the Rapid City area. Those targeted areas and accompanying partner schools are as follows:

- a) Rapid City
- b) Pine Ridge (Crazy Horse, American Horse, Little Wound, Porcupine, Wounded Knee, Shannon County Schools, Pine Ridge, Loneman, Red Cloud, Our Lady of Lourdes)
- c) Rosebud (Todd County Schools, St. Francis Indian Schools)
- d) Crow Creek (Crow Creek Tribal School)
- e) Lower Brule (Lower Brule School)
- f) Cheyenne River (Takini, Eagle Butte)
- g) Lake Traverse (Tiospa Zina, Enemy Swim Day School)
- h) Yankton (Marty Indian School)
- i) Standing Rock (Smee School District)

2. Deliver a summer residential High School Mentor Program for 125 students.

3. Develop and disseminate higher education, academic planning, and financial aid based resources to partner schools, SD GEAR UP participants and their families.

- a) Disseminate the opportunities and capacities of the Bridges career software to SD GEAR UP families and participants;

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- b) Coordinate and deliver parental support workshops in collaboration with all school parent-school coordinators; and,
 - c) Publish parental support information related to higher education, academic planning, and financial aid in a quarterly newsletter.
4. Create and provide professional development workshops for participating SD GEAR UP Schools targeted at middle/junior high to high school student transition for school designated transition personnel.
5. Designate a local site coordinator at each partner SD GEAR UP school in which to disseminate activities, information, work with students, families, and school staff on activities and projects directly related to the goals and objectives of SD GEAR UP.
- a) Facilitate at least two (2) SD GEAR UP site coordinator meetings.
 - b) Utilize Bridges career software with SD GEAR UP students to increase career awareness, inform students about academic preparation, and expose students to financial aid related information for higher education.
 - c) Provide information to partner schools related to distance education curriculum that could be used to enhance partner school curriculum as requested from partner schools.
6. Collaborate with South Dakota Board of Regents post-secondary educational institutions and identifiable tribal college partners on high school to post-secondary educational transition programs. These programs will include but are not limited to pre-college enrichment programs (i.e. Upward Bound), college readiness, and other programs aimed at college readiness for students of the target population.
7. Provide appropriate reporting data to State Project Director and the State contracted evaluator, as the State and contracted evaluator may reasonably require.
8. Participate in National meetings regarding the Gaining Early Awareness and Readiness for Undergraduate Programs (GEAR UP).
9. Maintain Mid-Central Educational Cooperative as the Grantee's fiscal agent. The Grantee must have written approval from the State if any change is to be made regarding the fiscal agent. The Grantee and the fiscal agent will use such fiscal control and fund accounting procedures as will ensure proper disbursement of, and accounting for, Federal funds paid to the Grantee under the GEAR UP program. The Grantee and the fiscal agent will maintain such records, provide such information, and afford such access to the records as the State may reasonably require to carry out the State agency's duties.

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10. It is anticipated that this will be a six (6) year grant which will be renewed annually with an ultimate end date of August 31, 2011. The Grantee must provide to the State a new budget by July 1 for the forthcoming year. The new budget must include the Grantee's anticipated expenditures and match.
 11. The Grantee will ensure that information is collected in order to complete the SD GEAR UP annual project report by the date identified by the United States Department of Education and will complete any interim reports as requested by the South Dakota Program Officers at the United States Department of Education.
 12. When issuing statements, press releases, request for proposals, bid solicitations, and other documents describing projects or programs funded in whole or in part with Gaining Early Awareness and Readiness for Undergraduate Programs (GEAR UP) funds, Grantee must follow special conditions as described in Attachment B.
 13. If the Grantee chooses to provide services or other benefits to private school children under the SD GEAR UP program, those services or benefits must be secular, neutral, and non-ideological.
 14. The Grantee will adopt and use proper methods of administering this program, including the enforcement of any obligations imposed by law for carrying out this program and the correction of deficiencies in program operations that are identified through audits, monitoring, or evaluation.
- D. The Grantee understands and agrees that granted funds are to be used for purposes set forth in the application, and that the work will be performed in accordance with: PL 105-244, Title IV, Part A, Subpart 2 Chapter 2 of the Higher Education Act of 1965, as amended; OMB Circulars A-87 and A-133; and Edgar as applicable. The undersigned is authorized to commit applicant to abide by the attached Certified Assurances incorporated herein as Attachments D.
- Federal funds will be used to increase the level of State, local, and other non-Federal funds that would, in the absence of federal funds, be made available, and in no case supplant such State, local, and other non-Federal funds.
- E. The Grantee agrees to hold harmless and indemnify the State of South Dakota, its officers, agents and employees, from and against any and all actions, suits, damages, liability or other proceedings which may arise as a result of performing services hereunder. This section does not require the Grantee to be responsible for or defend against claims or damages arising solely from acts or omissions of the State, its officers or employees.

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F. The Grantee agrees to provide services in compliance with the Americans with Disabilities Act of 1990.

II. THE STATE:

The State will make a total payment to the Grantee in an amount not to exceed \$1,314,826.00 for the purpose of carrying out the provisions set forth in this agreement. The Grantee agrees all payments issued under this agreement will be made in accordance with the attached budget, incorporated herein as Attachment A. The Grantee may exceed individual budget line items by up to 10 percent without approval from the State. Budget line item transfers that exceed a line item by more than 10 percent are required to have prior written approval from the State. Any deviations from the budget, in terms of additional budget line items or capital expenditures, require written approval by the State prior to the expense being incurred. Payments under this agreement will be made in monthly installments as described below; however, each payment is contingent upon the continued availability of funding.

The State agrees to make monthly fixed installments in the amount of \$40,000.00. Additional installments will be made monthly based upon receipt of a detailed invoice submitted by the Grantee that documents actual expenses incurred and matching documentation as required in Section III.B below. The fixed installment amount will be deducted from the additional installments. Payment will be made upon approval of all required documentation.

The subsequent years' Grant awards are contingent upon continued federal funding and the satisfactory completion of the previous year's activities.

III. MATCHING REQUIREMENTS

- A. Federal grant funds must be matched at a rate of 100% by the State and Grantee per the United States Department of Education SD GEAR UP matching requirements as described in Attachment C, incorporated herein as a part of this agreement.
- B. For Year 3, the Grantee must submit to the State detailed documentation of a minimum 90% match for all expenses incurred through the end of the grant agreement, as required in Section II. above. The Grantee must submit to the State, all accumulated detailed match documentation with each invoice submitted. The final installment will be withheld by the State until matching documentation has been received and approved by the State. The Grantee's match amount may be subject to adjustment upon written request submitted by the Grantee and written approval rendered by the State. Matching amount for subsequent years may vary depending on the availability of State funding.

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C. Federal funding for the SD GEAR UP program is based on the continued availability of matching funds. This agreement will be suspended if it is determined by the State that the State and/or Grantee does not have the required matching funds, until such a time that additional matching funds become available.

IV. ASSURANCES AND CERTIFICATION STATEMENT:

The above named Grantee assures the South Dakota Department of Education that this grant will be administered in compliance with the terms and conditions contained in this agreement, and with all state and federal statutes and regulations applicable to the use of these funds.

V. AMENDMENT PROVISION

This agreement contains the entire agreement between the parties, and is subject to and will be construed under the laws of the State of South Dakota, and may be amended only in writing signed by both parties.

VI. TERMINATION PROVISION

This agreement can be terminated upon thirty (30) days written notice by either party and may be terminated for cause by the State at any time with or without notice.

VII. DEFAULT PROVISION

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 the law or federal funds reduction, 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.

VIII. CONTROLLING LAW PROVISION

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.

IX. SEVERABILITY PROVISION

In the event that any provision of this agreement shall be held unenforceable or invalid by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

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X. INSURANCE PROVISION

The Grantee agrees, at its sole cost and expense, to obtain and maintain adequate levels of commercial liability, business automobile liability and worker's compensation insurance required by the State during the period of this agreement. Certificates of insurance may be required.

- XI. EQUAL EMPLOYMENT OPPORTUNITY CLAUSE: Grantee is required to comply with E.O. 11246, "Equal Employment Opportunity", as amended by E.O. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR Part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."
- XII. NONDISCRIMINATION CLAUSE: Grantee agrees to comply with all Federal statutes relating to non-discrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. 1681-1683 and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) Sections 523 and 527 of the Public Health Services Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply.
- XIII. DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION PROVISION: Grantee certifies, by signing this agreement, that neither the Consultant nor the Consultant's principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- XIV. CLEAN AIR AND FEDERAL WATER POLLUTION PROVISION: Grantee is required to comply with the Clean Air Act (U.S.C. 7401 et. seq.), and the Federal Water Pollution Control Act (33 U.S.C. 1251 et. seq.) as amended.

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XV. BYRD ANTI-LOBBYING PROVISION: Grantee certifies to the State that it does not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant or any other awards covered by 31 U.S.C. 1352. Lobbying with non-federal funds that takes place in connections with obtaining any federal award must also be disclosed to the State.

In witness hereto the parties signify their agreement by signature affixed below:

 9-25-07

Authorizing Official Signature (Date)

 9/26/07

Authorized State Representative (Date)
Department of Education

State Agency Coding: (Center/Company/Account)
State Agency contact who can provide additional
information regarding this contract:

1232519366S0/1000/520607008
1201190366S0/2024/520607008
Rob Huffman (605) 773-4600

ATTACHMENT A

GEAR UP-OSEC Agreement Budget for Year 3 Ending August 31, 2008					
Budget Line Items	Description	Budget Breakdown	Budget Line Item Totals	Year 3 Match	Match Line Item Totals
Salaries					
	Ted Hamilton 60%	25,600.00			
	Stacy Phelps 100%	66,950.00		-	
	Regional Coordinator (3)	129,780.00		17,200.00	
	Curriculum Coordinator	30,000.00		30,000.00	
	Matching Coordinator	22,000.00			
	Admin Assistant	12,360.00		12,690.00	
	HS Summer Staff	105,000.00		80,000.00	
Line Item Subtotal			391,690.00		139,890.00
Benefits					
	fringe (7.65%)	8,033.00		-	
	fringe (28%)	80,273.00		3,173.00	
Line Item Subtotal			88,306.00		3,173.00
Purchase Services					
	MS Partner Grants	230,200.00		368,000.00	
	HS Partner Grants	56,000.00		56,000.00	
	Midcentral Admin Fees	48,638.00		10,969.00	
	Summer Bus Rentals	8,000.00		8,000.00	
	HS Summer Food	150,000.00		75,000.00	
	HS Dorms & Facilities	90,000.00		175,000.00	
	Kyle Office Rental	4,800.00		-	
	OSEC Gear Up Liability	7,000.00		-	
	Tutoring/mentoring	30,000.00		30,000.00	
	Distance Ed Site Coordinators			150,000.00	
Line Item Subtotal			624,638.00		872,969.00
Travel					
	Staff Travel	75,000.00			
Line Item Subtotal			75,000.00		-
Materials & Supplies					
	Office Supplies	40,000.00		-	
	Teacher Supplies	10,000.00		50,000.00	
	Phone/Copier/Telcom	20,000.00		-	
	Media Publications	9,000.00		9,000.00	
	Newsletter			2,500.00	
	Black Board			6,000.00	
Line Item Subtotal			79,000.00		67,500.00
Training					
	Teacher Training			50,000.00	
Line Item Subtotal					50,000.00
Budget Totals		1,258,634.00	1,258,634.00	1,133,532.00	1,133,532.00

ATTACHMENT B

SPECIAL CONDITIONS FOR DISCLOSING FEDERAL FUNDING IN PUBLIC ANNOUNCEMENTS

When issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds included in this Act, including but not limited to State and local governments and recipients of Federal research grants, shall clearly state

- (1) the percentage of the total costs of the program or project which will be financed with Federal money;
- (2) the dollar amount of Federal funds for the project or program; and
- (3) percentage and dollar amount of the total costs of the project or program that will be financed by non-governmental sources.

Recipients must comply with these conditions under Public Law 108-447, the "Consolidated Appropriations Act 2005", DIVISION OF DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2005, Title V General Provisions, Sec. 506, December 8, 2004.

ATTACHMENT C

**GAINING EARLY AWARENESS AND READINESS FOR
UNDERGRADUATE PROGRAMS (GEAR UP),
OFFICE OF POSTSECONDARY EDUCATION,
UNITED STATES DEPARTMENT OF EDUCATION**

Matching Requirements

What are the matching requirements for the GEAR UP program?

- **Dollar-for-dollar match:** Section 404C(b) of the Higher Education Act requires that at least 50 percent of the *total cost* of a GEAR UP project to be paid with State, local, institutional, or private funds (*i.e.*, for each dollar of Federal funds received, at least one dollar of State or private funds must be contributed). Matching contributions can be in the form of cash or documented in-kind contributions.
- **Contributions that exceed the statutory minimum:** Some GEAR UP grantees proposed in their applications matching contributions exceeding the statutory minimum. Under the GEAR UP regulations at 34 CFR 694.7(a)(2), a grantee is obligated to contribute the entire amount of match stated in its application, even if the amount exceeds the statutory requirement.
- **Timing of contributions:** Grantees are required by the GEAR UP regulations at 34 CFR 694.7(a)(2) to comply with the matching percentage stated in their applications *for each individual year* of the grant. In other words, grantees must make their matching contributions in the year designated in their applications. Federal grants are subject to audit at any time during the grant period, and auditors may look at matching contributions before the end of the grant period. Accordingly, grantees cannot fail to make matching contributions in the early years of a grant and then "catch up" in the final year or two of the grant.

What are the consequences for failure to provide matching dollars as proposed in the application?

- **Potential consequences:** Failure to provide the level of cost sharing reflected in the approved award budget may result in the reduction of the Federal award amount, a refund of Federal funds to the Department of Education, or possible termination of the award.
- **Audits:** Cost sharing commitments are subject to audit, including audit by the Inspector General's office.

ATTACHMENT C

What types of matching contributions count toward the GEAR UP matching requirement?

- **Types of matching:** The following three types of matching are authorized specifically by Section 404C(c) of the Higher Education Act:
 1. **Financial assistance:** The amount of financial assistance paid to students from State, local, institutional, or private funds;
 2. **Waivers:** The amount of tuition, fees, room, or board waived or reduced for GEAR UP students; and
 3. **Early intervention activities:** The amount expended on *documented*, targeted, long-term mentoring and counseling provided by volunteers or paid staff of nonschool organizations, including businesses, religious organizations, community groups, postsecondary educational organizations, nonprofit and philanthropic organizations, and other organizations.
- **Applicable cost principles:** Any items that would be allowable under the applicable cost principles if charged directly to the grant may be included as match for the grantee's cost sharing requirement. Please review OMB circulars that apply to your type of organization.¹ Requirements from these circulars, such as requirements that costs be reasonable, allocable, and consistent, apply to matching as well as direct costs.
- **Indirect costs:** A GEAR UP grantee may charge indirect costs of eight percent or the grantee's negotiated indirect cost rate (whichever is less) of allowable Federal direct costs and of allowable matching contributions. Indirect costs cannot be charged for scholarship components of grants. The grantee must have an approved indirect cost rate agreement in order to charge indirect cost to its project. However, unrecovered indirect costs cannot be counted as matching funds. For example, if a grantee has a negotiated indirect cost rate of 40 percent, the grantee may charge up to eight percent of the Federal direct costs and matching costs (excluding scholarship funds) to the grant as indirect costs.

¹ For States, local governments, and Indian tribes, the applicable OMB circulars are A-87, A-102, and A-133; for educational institutions (even if part of a State or local government) the applicable OMB circulars are A-21, A-110, and A-133; and for non-profit organizations, the applicable OMB circulars are A-122, A-110, and A-133.

ATTACHMENT C

What are appropriate sources of matching contributions?

- **Sources of matching contributions:** Matching contributions may be made from any non-Federal source, including non-Federal grants. (Under the Education Department General Administrative Regulations "EDGAR" 34 CFR 80.24, matching or cost sharing requirements may be satisfied by (1) allowable costs incurred by the grantee and/or (2) the value of third party in-kind contributions.)
- **Changes in the source of matching contributions:** If a grantee finds that one or more of the partners in its original grant application is not meeting commitments to the GEAR UP project, the grantee may find a new partner to provide additional resources. In such cases, the grantee's project officer should be notified.

Are there any limitations with respect to matching contributions?

- **Matching contributions can be counted only one time:** A matching contribution may be counted as cost sharing towards only one Federal project. If a grantee has multiple Federal grants, the same contributions cannot be counted as cost sharing for two or more Federal grants (including multiple GEAR UP grants).
- **Matching contributions must be incurred solely to advance the GEAR UP project:** If matching contributions benefit both a GEAR UP project and another project or entity, the matching contribution must be credited in the proportion that it benefits the GEAR UP project. For example, if a GEAR UP partner hires a tutor to work with GEAR UP students and students that are not in the GEAR UP cohort, only the time that the tutor spends with GEAR UP students may be counted as match. Also, please note that if a GEAR UP project staff member divides his or her time between a GEAR UP project and another activity (including another GEAR UP project), time and effort reports must reflect the percentage of time devoted to the GEAR UP project.
- **Matching contributions cannot be shifted from one project to another:** Grantees that have more than one Federal grant, including more than one GEAR UP grant, must document match separately for each grant. Matching contributions cannot be shifted from one project to another.
- **Matching contributions must be obligated during the grant period:** Matching contributions must be obligated during the grant period. In the case of scholarship money that will not be awarded until after the grant period, matching contributions should be placed in a trust fund or otherwise set aside for the benefit of the GEAR UP cohort during the grant period.

ATTACHMENT C

How should grantees document matching contributions?

- **Documentation of a match:** To avoid potential audit findings, documentation of match should:
 1. Capture the cost sharing identified with a particular project;
 2. Contain adequate source documentation for claimed cost sharing;
 3. Provide clear valuation of in-kind documentation; and
 4. Provide support of cost sharing by grant partners.
- **Fiscal agent:** The fiscal agent of a GEAR UP project is responsible for documentation of all matching contributions for the entire grant – even matching provided by its partners. In the event that a grantee is audited, documentation of the match should be housed with the fiscal agent. (See EDGAR, 34 CFR 75.730).
- **Valuation of in-kind contributions:** Costs and third party in-kind contributions counting toward a matching requirement must be verifiable from the records of the grantee and must show how the value of third-party contributions was derived. (See EDGAR 34 CFR 80.24(a)(6).) *Note: Please review applicable OMB circulars and EDGAR for details regarding how to value in-kind contributions. Requirements vary by type of organization, and by whether the donation came from the grantee or a third party. In most cases, grantees are required to value in-kind contributions of facilities and equipment using depreciation or use allowance rather than fair market value.*

Are there any exceptions to the minimum statutory match?

- **Reduced matching:** In a limited number of cases, some grantees may be eligible for an exemption from part of the statutory matching requirement. Partnerships that meet the eligibility requirements under the GEAR UP regulations at 34 CFR 694.7(b)(2) may request waivers in their applications for funding, and their budgets must reflect the reduced cost share levels. As with all grantees, GEAR UP grantees that are eligible for this waiver are held to the amount of match indicated in their applications.

STATEMENT OF ASSURANCES

GENERAL ASSURANCES:

The grantee hereby assures the South Dakota Department of Education that:

1. Each program will be administered in accordance with all applicable statutes, regulations, program plans, and applications.
2. The control of funds provided under each program and title to property acquired with program funds will be in a public agency or in a nonprofit private agency, institution, organization, or Indian tribe, if the law authorizing the program provides for assistance to those entities.
3. The public agency, nonprofit private agency, institution, or organization, or Indian tribe will administer the funds and property to the extent required by the authorizing statutes.
4. The grantee will adopt and use proper methods of administering each such program, including —
 - the enforcement of any obligations imposed by law on agencies, institutions, organizations, and other recipients responsible for carrying out each program; and
 - the correction of deficiencies in program operations that are identified through audits, monitoring, or evaluation.
5. The grantee will cooperate in carrying out any evaluation of each such program conducted by or for the State educational agency, the Secretary, or other Federal officials.
6. The grantee will use such fiscal control and fund accounting procedures as will ensure proper disbursement of, and accounting for, Federal funds paid to the applicant under each such program.
7. The grantee will —
 - submit such reports to the State educational agency as the State educational agency may require to enable the State educational agency to perform their duties under each such program; and
 - maintain such records, provide such information, and afford such access to the records as the State educational agency may reasonably require to carry out the State educational agency's duties.
8. Funds will be used to increase the level of State, local, and other non-Federal funds that would, in the absence of federal funds, be made available, and in no case supplant such State, local, and other non-Federal funds.
9. The grantee will provide educational services or other benefits, including materials and equipment, provided under GEAR UP by a Partnership or State that chooses to provide those services or benefits to students attending private schools, must be secular, neutral, and non ideological.

PRO-CHILDREN ACT OF 1994 ASSURANCE

I hereby acknowledge that the grantee of which I am the authorized representative, has adopted the provisions of the Pro-Children Act of 1994. (The Pro-Children Act requires that smoking not be permitted in any indoor facility used routinely or regularly for the provision of "children's services" to persons under age 18, if the services are funded by specified Federal programs either directly or through State or local governments.)

OMB Approval No. 0348-0040

ASSURANCES - NON-CONSTRUCTION PROGRAMS

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0040), Washington, DC 20503

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.


ATTACHMENT D

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management, and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§ 290 dd-3 and 290 ee 3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.
7. Will comply, or has already complied, with the requirements of Titles II and III of the uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
8. Will comply, as applicable, with the provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

ATTACHMENT D

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874) and the Contract Work Hours and Safety Standards Act (40 U.S.C. § 327-333), regarding labor standards for federally assisted construction subagreements.
10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. §7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).
12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1721 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).
14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.
15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.
16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, AAudits of States, Local Governments, and Non-Profit Organizations.≡
18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL 	TITLE Executor Director
APPLICANT ORGANIZATION Oceti Sakowin Education Consortium	DATE SUBMITTED 9-28-07

CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, "New Restrictions on Lobbying," and 34 CFR Part 85, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Education determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over \$100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110--

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (2)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transaction (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 -

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about:

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director, Grants Policy and Oversight Staff, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3652, GSA Regional Office Building No. 3), Washington, DC 20202-4248. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

Check ☐ if there are workplaces on file that are not identified here.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

NAME OF APPLICANT	PR/AWARD NUMBER AND / OR PROJECT NAME
<i>Deeti Szlowin Education Consortium</i>	
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
<i>Theodore L Hamilton, Executive Director</i>	
SIGNATURE	DATE
<i>Th L H</i>	<i>9/25/07</i>

DRUG-FREE WORKPLACE (GRANTEES WHO ARE INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610-

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Director, Grants Policy and Oversight Staff, Department of Education, 400 Maryland Avenue, S.W. (Room 3652, GSA Regional Office Building No. 3), Washington, DC 20202-4248. Notice shall include the identification number(s) of each affected grant.

DEPARTMENT OF EDUCATION
STATE OF SOUTH DAKOTA
GRANT AGREEMENT
BETWEEN

(Oceti Sakowin Education Consortium)	(Office of Indian Education)
(PO Box 731)	AND (700 Governors Drive)
(Kyle, SD 57752)	(Pierre, SD 57501-2291)
(Hereinafter referred to as Grantee)	(Hereinafter referred to as State)

The State hereby enters into a Grant Agreement with the Grantee.

I. THE GRANTEE:

A. The project period on this agreement shall commence September 1, 2008 and shall end August 31, 2009.

B. The Purpose of the agreement is to:

Implement the State's Gaining Early Awareness and Readiness for Undergraduate Programs (SD GEAR UP) program, as authorized under P.L.105-244, Title IV, Part A, Subpart 2 Chapter 2 of the Higher Education Act of 1965, as amended.

C. The Grantee agrees to perform the following activities:

1. Develop and deliver Middle School Summer Transition Workshops targeting 490 7th grade students on eight (8) reservations and in the Rapid City area. Those targeted areas and accompanying partner schools are as follows:
 - a) Rapid City
 - b) Pine Ridge (Crazy Horse, American Horse, Little Wound, Porcupine, Wounded Knee, Shannon County Schools, Pine Ridge, Loneman, Red Cloud, Our Lady of Lourdes)
 - c) Rosebud (Todd County Schools, St. Francis Indian Schools)
 - d) Crow Creek (Crow Creek Tribal School)
 - e) Lower Brule (Lower Brule School)
 - f) Cheyenne River (Takini, Eagle Butte)
 - g) Lake Traverse (Tiospa Zina, Enemy Swim Day School)
 - h) Yankton (Marty Indian School)
 - i) Standing Rock (Smee School District)
2. Deliver a summer residential High School Mentor Program for 125 students.
3. Develop and disseminate higher education, academic planning, and financial aid based resources to partner schools, SD GEAR UP participants and their families.
 - a) Disseminate the opportunities and capacities of the Bridges career software to SD GEAR UP families and participants;
 - b) Coordinate and deliver parental support workshops in collaboration with all school parent-school coordinators; and,

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- c) Publish parental support information related to higher education, academic planning, and financial aid in a quarterly newsletter.
- 4. Create and provide professional development workshops for participating SD GEAR UP Schools targeted at middle/junior high to high school student transition for school designated transition personnel.
- 5. Designate a local site coordinator at each partner SD GEAR UP school in which to disseminate activities, information, work with students, families, and school staff on activities and projects directly related to the goals and objectives of SD GEAR UP.
 - a) Facilitate at least two (2) SD GEAR UP site coordinator meetings.
 - b) Utilize Bridges career software with SD GEAR UP students to increase career awareness, inform students about academic preparation, and expose students to financial aid related information for higher education.
 - c) Provide information to partner schools related to distance education curriculum that could be used to enhance partner school curriculum as requested from partner schools.
- 6. Collaborate with South Dakota Board of Regents post-secondary educational institutions and identifiable tribal college partners on high school to post-secondary educational transition programs. These programs will include but are not limited to pre-college enrichment programs (i.e. Upward Bound), college readiness, and other programs aimed at college readiness for students of the target population.
- 7. Provide appropriate reporting data to State Project Director and the State contracted evaluator, as the State and contracted evaluator may reasonably require.
- 8. Participate in National meetings regarding the Gaining Early Awareness and Readiness for Undergraduate Programs (GEAR UP).
- 9. Maintain Mid-Central Educational Cooperative as the Grantee's fiscal agent. The Grantee must have written approval from the State if any change is to be made regarding the fiscal agent. The Grantee and the fiscal agent will use such fiscal control and fund accounting procedures as will ensure proper disbursement of, and accounting for, Federal funds paid to the Grantee under the GEAR UP program. The Grantee and the fiscal agent will maintain such records, provide such information, and afford such access to the records as the State may reasonably require to carry out the State agency's duties.

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10. It is anticipated that this will be a six (6) year grant which will be renewed annually with an ultimate end date of August 31, 2011. The Grantee must provide to the State a new budget by July 1 for the forthcoming year. The new budget must include the Grantee's anticipated expenditures and match.
 11. The Grantee will ensure that information is collected in order to complete the SD GEAR UP annual project report by the date identified by the United States Department of Education and will complete any interim reports as requested by the South Dakota Program Officers at the United States Department of Education.
 12. When issuing statements, press releases, request for proposals, bid solicitations, and other documents describing projects or programs funded in whole or in part with Gaining Early Awareness and Readiness for Undergraduate Programs (GEAR UP) funds, Grantee must follow special conditions as described in Attachment B.
 13. If the Grantee chooses to provide services or other benefits to private school children under the SD GEAR UP program, those services or benefits must be secular, neutral, and non-ideological.
 14. The Grantee will adopt and use proper methods of administering this program, including the enforcement of any obligations imposed by law for carrying out this program and the correction of deficiencies in program operations that are identified through audits, monitoring, or evaluation.
 15. Refer to Attachment A – Budget; Attachment B – Special Conditions for Disclosing Federal Funding in Public Announcements; Attachment C – Gaining Early Awareness and Readiness for Undergraduate Programs (GEAR UP), Office of Post Secondary Education, United State Department of Education; Attachment D – Statement of Assurances which are part of this contract.
- D. The Grantee understands and agrees that granted funds are to be used for purposes set forth in the application, and that the work will be performed in accordance with PL 105-244, Title IV, Part A, Subpart 2 Chapter 2 of the Higher Education Act of 1965, as amended; OMB Circulars A-87 and A-133; and Edgar as applicable. The undersigned is authorized to commit applicant to abide by the attached Certified Assurances incorporated herein as Attachments D.

Federal funds will be used to increase the level of State, local, and other non-Federal funds that would, in the absence of federal funds, be made available, and in no case supplant such State, local, and other non-Federal funds.

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- E. The Grantee agrees to hold harmless and indemnify the State of South Dakota, its officers, agents and employees, from and against any and all actions, suits, damages, liability or other proceedings which may arise as a result of performing services hereunder. This section does not require the Grantee to be responsible for or defend against claims or damages arising solely from acts or omissions of the State, its officers or employees.
- F. The Grantee agrees to provide services in compliance with the Americans with Disabilities Act of 1990.

II. THE STATE:

The State will make a total payment to the Grantee in an amount not to exceed \$1,648,240.00 for the purpose of carrying out the provisions set forth in this agreement. The Grantee agrees all payments issued under this agreement will be made in accordance with the attached budget, incorporated herein as Attachment A. The Grantee may exceed individual budget line items by up to 10 percent without approval from the State. Budget line item transfers that exceed a line item by more than 10 percent are required to have prior written approval from the State. Any deviations from the budget, in terms of additional budget line items or capital expenditures, require written approval by the State prior to the expense being incurred. Payments under this agreement will be made in monthly installments as described below; however, each payment is contingent upon the continued availability of funding.

The State agrees to make monthly fixed installments in the amount of \$40,000.00. Additional installments will be made monthly based upon receipt of a detailed invoice submitted by the Grantee that documents actual expenses incurred and matching documentation as required in Section III.B. below. The fixed installment amount will be deducted from the additional installments. Payment will be made upon approval of all required documentation.

The subsequent years' Grant awards are contingent upon continued federal funding and the satisfactory completion of the previous year's activities.

III. MATCHING REQUIREMENTS:

- A. Federal grant funds must be matched at a rate of 100% by the State and Grantee per the United States Department of Education SD GEAR UP matching requirements as described in Attachment C, incorporated herein as a part of this agreement.
- B. For Year 4, the Grantee must submit to the State detailed documentation of a minimum 90% match for all expenses incurred through the end of the grant agreement, as required in Section II. above. The Grantee must submit to the State, all accumulated detailed match documentation with each invoice submitted. The final installment will be withheld

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by the State until matching documentation has been received and approved by the State. The Grantee's match amount may be subject to adjustment upon written request submitted by the Grantee and written approval rendered by the State. Matching amount for subsequent years may vary depending on the availability of State funding.

- C. Federal funding for the SD GEAR UP program is based on the continued availability of matching funds. This agreement will be suspended if it is determined by the State that the State and/or Grantee does not have the required matching funds, until such a time that additional matching funds become available.

IV. ASSURANCES AND CERTIFICATION STATEMENT:

The above named Grantee assures the South Dakota Department of Education that this grant will be administered in compliance with the terms and conditions contained in this agreement, and with all state and federal statutes and regulations applicable to the use of these funds.

V. AMENDMENT PROVISION

This agreement contains the entire agreement between the parties, and is subject to and will be construed under the laws of the State of South Dakota, and may be amended only in writing signed by both parties.

VI. TERMINATION PROVISION

This agreement can be terminated upon thirty (30) days written notice by either party and may be terminated for cause by the State at any time with or without notice.

VII. DEFAULT PROVISION

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 the law or federal funds reduction, 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.

VIII. CONTROLLING LAW PROVISION

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.

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IX. SEVERABILITY PROVISION

In the event that any provision of this agreement shall be held unenforceable or invalid by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

X. INSURANCE PROVISION

The Grantee agrees, at its sole cost and expense, to obtain and maintain adequate levels of commercial liability, business automobile liability and worker's compensation insurance required by the State during the period of this agreement. Certificates of insurance may be required.

XI. EQUAL EMPLOYMENT OPPORTUNITY CLAUSE: Grantee is required to comply with E.O. 11246, "Equal Employment Opportunity", as amended by E.O. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR Part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

XII. NONDISCRIMINATION CLAUSE: Grantee agrees to comply with all Federal statutes relating to non-discrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. 1681-1683 and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) Sections 523 and 527 of the Public Health Services Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply.

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- XIII. DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION PROVISION:
Grantee certifies, by signing this agreement, that neither the Consultant nor the Consultant's principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- XIV. CLEAN AIR AND FEDERAL WATER POLLUTION PROVISION: Grantee is required to comply with the Clean Air Act (U.S.C. 7401 et. seq.), and the Federal Water Pollution Control Act (33 U.S.C. 1251 et. seq.) as amended.
- XV. BYRD ANTI-LOBBYING PROVISION: Grantee certifies to the State that it does not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant or any other awards covered by 31 U.S.C. 1352. Lobbying with non-federal funds that takes place in connections with obtaining any federal award must also be disclosed to the State.

In witness hereto the parties signify their agreement by signature affixed below:



Authorizing Official Signature (Date) 2-20-09



Authorized State Representative (Date) 3/5/09
Department of Education

State Agency Coding: (Center/Company/Account)
State Agency contact who can provide additional
information regarding this contract:

1232519366S0/1000/520607008
1201190366S0/2024/520607008
Rob Huffman (605)-773-4600

GEAR UP BUDGET YEAR 4					
Category	OSEC GEAR UP Funds	State Funds Paid to OSEC	State Funds Match	Great Plains Foundation Grant	OSEC Match
Salaries	524,500.00	120,000.00	40,000.00		145,000.00
Benefits	124,272.00	36,000.00	11,200.00		
Purchase Services	607,368.00		32,500.00	20,000.00	1,078,400.00
Travel	74,500.00		10,300.00	30,000.00	
Materials & Supplies	111,600.00				
Training					
Totals	1,442,240.00	156,000.00	94,000.00	50,000.00	1,223,400.00

Agreement amount 1,648,240.00

Total Match 1,523,400.00

Total State Funds 250,000.00

GEAR UP-OSEC Agreement Budget for Year 4 Ending August 31, 2009					
Budget Line Items	Description	Budget Breakdown	Budget Line Item Totals	Year 4 Match	Match Line Item Totals
Salaries					
	Ted Hamilton	12,500.00			
	Stacy Phelps 100%	70,000.00			
	LuAnn Werdel	48,000.00		60,000.00	
	Korinna Phelps	48,000.00			
	Angela Estes	48,000.00			
	Cassie Brewer	42,000.00			
	Wendy Mendoza	42,000.00			
	Misty Mousseau	42,000.00			
	Jay Roman	56,000.00			
	Leslie Heathershaw	36,000.00			
	Admin Assistant	16,000.00			
	Matching Coordinator	36,000.00			
	HS Summer Staff	148,000.00		85,000.00	
Line Item Subtotal			644,500.00		145,000.00
Benefits					
	fringe (7.65%)	11,322.00			
	fringe (28%)	148,950.00			
Line Item Subtotal			160,272.00		
Purchase Services					
	MS Partner Grants	230,200.00		300,000.00	
	HS Partner Grants	56,000.00		518,400.00	
	Midcentral Admin Fees	69,368.00		60,000.00	
	Summer Bus Rentals	8,000.00			
	HS Summer Food	150,000.00			
	HS Dorms & Facilities	102,000.00		200,000.00	
	Kyle Office Rental	4,800.00			
	OSEC Gear Up Liability	7,000.00			
Line Item Subtotal			627,368.00		1,078,400.00
Travel					
	Staff Travel	104,500.00			
Line Item Subtotal			104,500.00		
Materials & Supplies					
	Office Supplies	72,100.00			
	Teacher Supplies	10,000.00			
	Phone/Copier/Telcom	14,500.00			
	Media Publications	15,000.00			
Line Item Subtotal			111,600.00		
Training					
	Teacher Training				
Line Item Subtotal					
Budget Totals		1,648,240.00	1,648,240.00	1,223,400.00	1,223,400.00

ATTACHMENT B

**SPECIAL CONDITIONS FOR DISCLOSING
FEDERAL FUNDING IN PUBLIC ANNOUNCEMENTS**

When issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds included in this Act, including but not limited to State and local governments and recipients of Federal research grants, shall clearly state

- (1) the percentage of the total costs of the program or project which will be financed with Federal money;
- (2) the dollar amount of Federal funds for the project or program; and
- (3) percentage and dollar amount of the total costs of the project or program that will be financed by non-governmental sources.

Recipients must comply with these conditions under Public Law 108-447, the "Consolidated Appropriations Act 2005", DIVISION OF DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2005, Title V General Provisions, Sec. 506, December 8, 2004.

ATTACHMENT C

**GAINING EARLY AWARENESS AND READINESS FOR
UNDERGRADUATE PROGRAMS (GEAR UP),
OFFICE OF POSTSECONDARY EDUCATION,
UNITED STATES DEPARTMENT OF EDUCATION**

Matching Requirements

What are the matching requirements for the GEAR UP program?

- **Dollar-for-dollar match:** Section 404C(b) of the Higher Education Act requires that at least 50 percent of the *total cost* of a GEAR UP project to be paid with State, local, institutional, or private funds (*i.e.*, for each dollar of Federal funds received, at least one dollar of State or private funds must be contributed). Matching contributions can be in the form of cash or documented in-kind contributions.
- **Contributions that exceed the statutory minimum:** Some GEAR UP grantees proposed in their applications matching contributions exceeding the statutory minimum. Under the GEAR UP regulations at 34 CFR 694.7(a)(2), a grantee is obligated to contribute the entire amount of match stated in its application, even if the amount exceeds the statutory requirement.
- **Timing of contributions:** Grantees are required by the GEAR UP regulations at 34 CFR 694.7(a)(2) to comply with the matching percentage stated in their applications *for each individual year* of the grant. In other words, grantees must make their matching contributions in the year designated in their applications. Federal grants are subject to audit at any time during the grant period, and auditors may look at matching contributions before the end of the grant period. Accordingly, grantees cannot fail to make matching contributions in the early years of a grant and then "catch up" in the final year or two of the grant.

What are the consequences for failure to provide matching dollars as proposed in the application?

- **Potential consequences:** Failure to provide the level of cost sharing reflected in the approved award budget may result in the reduction of the Federal award amount, a refund of Federal funds to the Department of Education, or possible termination of the award.
- **Audits:** Cost sharing commitments are subject to audit, including audit by the Inspector General's office.

ATTACHMENT C

What types of matching contributions count toward the GEAR UP matching requirement?

- **Types of matching:** The following three types of matching are authorized specifically by Section 404C(c) of the Higher Education Act:
 1. **Financial assistance:** The amount of financial assistance paid to students from State, local, institutional, or private funds;
 2. **Waivers:** The amount of tuition, fees, room, or board waived or reduced for GEAR UP students; and
 3. **Early intervention activities:** The amount expended on *documented*, targeted, long-term mentoring and counseling provided by volunteers or paid staff of nonschool organizations, including businesses, religious organizations, community groups, postsecondary educational organizations, nonprofit and philanthropic organizations, and other organizations.
- **Applicable cost principles:** Any items that would be allowable under the applicable cost principles if charged directly to the grant may be included as match for the grantee's cost sharing requirement. Please review OMB circulars that apply to your type of organization.¹ Requirements from these circulars, such as requirements that costs be reasonable, allocable, and consistent, apply to matching as well as direct costs.
- **Indirect costs:** A GEAR UP grantee may charge indirect costs of eight percent or the grantee's negotiated indirect cost rate (whichever is less) of allowable Federal direct costs and of allowable matching contributions. Indirect costs cannot be charged for scholarship components of grants. The grantee must have an approved indirect cost rate agreement in order to charge indirect cost to its project. However, unrecovered indirect costs cannot be counted as matching funds. For example, if a grantee has a negotiated indirect cost rate of 40 percent, the grantee may charge up to eight percent of the Federal direct costs and matching costs (excluding scholarship funds) to the grant as indirect costs.

¹ For States, local governments, and Indian tribes, the applicable OMB circulars are A-87, A-102, and A-133; for educational institutions (even if part of a State or local government) the applicable OMB circulars are A-21, A-110, and A-133; and for non-profit organizations, the applicable OMB circulars are A-122, A-110, and A-133.

ATTACHMENT C

What are appropriate sources of matching contributions?

- **Sources of matching contributions:** Matching contributions may be made from any non-Federal source, including non-Federal grants. (Under the Education Department General Administrative Regulations "EDGAR" 34 CFR 80.24, matching or cost sharing requirements may be satisfied by (1) allowable costs incurred by the grantee and/or (2) the value of third party in-kind contributions.)
- **Changes in the source of matching contributions:** If a grantee finds that one or more of the partners in its original grant application is not meeting commitments to the GEAR UP project, the grantee may find a new partner to provide additional resources. In such cases, the grantee's project officer should be notified.

Are there any limitations with respect to matching contributions?

- **Matching contributions can be counted only one time:** A matching contribution may be counted as cost sharing towards only one Federal project. If a grantee has multiple Federal grants, the same contributions cannot be counted as cost sharing for two or more Federal grants (including multiple GEAR UP grants).
- **Matching contributions must be incurred solely to advance the GEAR UP project:** If matching contributions benefit both a GEAR UP project and another project or entity, the matching contribution must be credited in the proportion that it benefits the GEAR UP project. For example, if a GEAR UP partner hires a tutor to work with GEAR UP students and students that are not in the GEAR UP cohort, only the time that the tutor spends with GEAR UP students may be counted as match. Also, please note that if a GEAR UP project staff member divides his or her time between a GEAR UP project and another activity (including another GEAR UP project), time and effort reports must reflect the percentage of time devoted to the GEAR UP project.
- **Matching contributions cannot be shifted from one project to another:** Grantees that have more than one Federal grant, including more than one GEAR UP grant, must document match separately for each grant. Matching contributions cannot be shifted from one project to another.
- **Matching contributions must be obligated during the grant period:** Matching contributions must be obligated during the grant period. In the case of scholarship money that will not be awarded until after the grant period, matching contributions should be placed in a trust fund or otherwise set aside for the benefit of the GEAR UP cohort during the grant period.

How should grantees document matching contributions?

- **Documentation of a match:** To avoid potential audit findings, documentation of match should:
 1. Capture the cost sharing identified with a particular project;
 2. Contain adequate source documentation for claimed cost sharing;
 3. Provide clear valuation of in-kind documentation; and
 4. Provide support of cost sharing by grant partners.
- **Fiscal agent:** The fiscal agent of a GEAR UP project is responsible for documentation of all matching contributions for the entire grant -- even matching provided by its partners. In the event that a grantee is audited, documentation of the match should be housed with the fiscal agent. (See EDGAR, 34 CFR 75.730).
- **Valuation of in-kind contributions:** Costs and third party in-kind contributions counting toward a matching requirement must be verifiable from the records of the grantee and must show how the value of third-party contributions was derived. (See EDGAR 34 CFR 80.24(a)(6).) *Note: Please review applicable OMB circulars and EDGAR for details regarding how to value in-kind contributions. Requirements vary by type of organization, and by whether the donation came from the grantee or a third party. In most cases, grantees are required to value in-kind contributions of facilities and equipment using depreciation or use allowance rather than fair market value.*

Are there any exceptions to the minimum statutory match?

- **Reduced matching:** In a limited number of cases, some grantees may be eligible for an exemption from part of the statutory matching requirement. Partnerships that meet the eligibility requirements under the GEAR UP regulations at 34 CFR 694.7(b)(2) may request waivers in their applications for funding, and their budgets must reflect the reduced cost share levels. As with all grantees, GEAR UP grantees that are eligible for this waiver are held to the amount of match indicated in their applications.

STATEMENT OF ASSURANCES

GENERAL ASSURANCES:

The grantee hereby assures the South Dakota Department of Education that:

1. Each program will be administered in accordance with all applicable statutes, regulations, program plans, and applications.
2. The control of funds provided under each program and title to property acquired with program funds will be in a public agency or in a nonprofit private agency, institution, organization, or Indian tribe, if the law authorizing the program provides for assistance to those entities.
3. The public agency, nonprofit private agency, institution, or organization, or Indian tribe will administer the funds and property to the extent required by the authorizing statutes.
4. The grantee will adopt and use proper methods of administering each such program, including —
 - the enforcement of any obligations imposed by law on agencies, institutions, organizations, and other recipients responsible for carrying out each program; and
 - the correction of deficiencies in program operations that are identified through audits, monitoring, or evaluation.
5. The grantee will cooperate in carrying out any evaluation of each such program conducted by or for the State educational agency, the Secretary, or other Federal officials.
6. The grantee will use such fiscal control and fund accounting procedures as will ensure proper disbursement of, and accounting for, Federal funds paid to the applicant under each such program.
7. The grantee will —
 - submit such reports to the State educational agency as the State educational agency may require to enable the State educational agency to perform their duties under each such program; and
 - maintain such records, provide such information, and afford such access to the records as the State educational agency may reasonably require to carry out the State educational agency's duties.
8. Funds will be used to increase the level of State, local, and other non-Federal funds that would, in the absence of federal funds, be made available, and in no case supplant such State, local, and other non-Federal funds.
9. The grantee will provide educational services or other benefits, including materials and equipment, provided under GEAR UP by a Partnership or State that chooses to provide those services or benefits to students attending private schools, must be secular, neutral, and non ideological.

PRO-CHILDREN ACT OF 1994 ASSURANCE

I hereby acknowledge that the grantee of which I am the authorized representative, has adopted the provisions of the Pro-Children Act of 1994. (The Pro-Children Act requires that smoking not be permitted in any indoor facility used routinely or regularly for the provision of "children's services" to persons under age 18, if the services are funded by specified Federal programs either directly or through State or local governments.)

OMB Approval No. 0348-0040

ASSURANCES - NON-CONSTRUCTION PROGRAMS

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0040), Washington, DC 20503

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

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Standard Form 424B (Rev. 7-97)
Prescribed by OMB Circular A-102

ATTACHMENT D

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management, and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§ 290 dd-3 and 290 ee 3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.
7. Will comply, or has already complied, with the requirements of Titles II and III of the uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
8. Will comply, as applicable, with the provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.


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Prescribed by OMB Circular A-102

ATTACHMENT D

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874) and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction subagreements.
10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).
12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §1721 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §469a-1 et seq.).
14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.
15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.
16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, Audits of States, Local Governments, and Non-Profit Organizations.
18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL 	TITLE Executive Director
APPLICANT ORGANIZATION Ocoti Salmon Education Consortium	DATE SUBMITTED 3-19-09

**CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER
RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS**

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, "New Restrictions on Lobbying," and 34 CFR Part 85, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Education determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over \$100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110—

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (2)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transaction (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 -

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about:

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director, Grants Policy and Oversight Staff, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3652, GSA Regional Office Building No. 3), Washington, DC 20202-4248. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

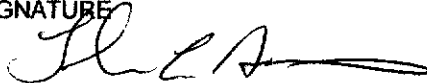
(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

Check ☐ if there are workplaces on file that are not identified here.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

NAME OF APPLICANT	PR/AWARD NUMBER AND / OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE Theodore L Hamilton Executive Director	
SIGNATURE 	DATE 3-18-09

DRUG-FREE WORKPLACE (GRANTEES WHO ARE INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610-

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Director, Grants Policy and Oversight Staff, Department of Education, 400 Maryland Avenue, S.W. (Room 3652, GSA Regional Office Building No. 3), Washington, DC 20202-4248. Notice shall include the identification number(s) of each affected grant.

DEPARTMENT OF EDUCATION
STATE OF SOUTH DAKOTA
GRANT AGREEMENT AMENDMENT #1
BETWEEN

(Oceti Sakowin Education Consortium)	(Office of Finance and Management)
(PO Box 731)	(700 Governors Drive)
(Kyle, SD 57752)	AND (Pierre, SD 57501-2291)
()	()
(Hereinafter referred to as Grantee)	(Hereinafter referred to as State)

Accordingly, Grant Agreement Number 2008A-340 is hereby amended as follows:

Section II.A. is revised to read as follows:

II. THE STATE:

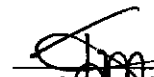
The State will make a total payment to the Grantee in an amount not to exceed \$1,405,872.00 for the purpose of carrying out the provisions set forth in this agreement. The Grantee agrees all payments issued under this agreement will be made in accordance with the attached budget, incorporated hererin as Attachment A. The Grantee may exceed individual budget line items by up to 10 percent without approval from the State. Budget line item transfers that exceed a line item by more than 10 percent are required to have prior written approval from the State. Any deviations from the budget, in terms of additional budget line items or capital expenditures, require written approval by the State prior to the expense being incurred. Payments under this agreement will be made in monthly installments as described below; however, each payment is contingent upon the continued availability of funding.

The State agrees to make monthly fixed installments in the amount of \$40,000.00. Additional installments will be made monthly based upon receipt of a detailed invoice submitted by the Grantee that documents actual expenses incurred and matching documentation as required in Seciton III.B below. The fixed installment amount will be deducted from the additional installments. Payment will be made upon approval of all required documentation.

The subsequent years' Grant awards are contingent upon continued federal funding and the satisfactory completion of the previous year's activities.

In witness hereto the parties signify their agreement by signature affixed below:

 3-12-08
Consultant Signature (Date)

 2/24/09
Authorized State Representative (Date)
Department of Education

State Agency Coding: (Center/Company/Account)

1201190366S0/1000/520607008

1201190366S0/2024/520607008

1201190366SC/2024/520607007

1201190366SC/2024/520607007

State Agency contact who can provide additional information regarding this contract:

Keith Moore (605) 773-6118

Rob Huffman (605) 7730-4600

DEPARTMENT OF EDUCATION
STATE OF SOUTH DAKOTA
GRANT AGREEMENT AMENDMENT #1
BETWEEN

(Oceti Sakowin Education Consortium)	(Office of Indian Education)
(PO Box 228)	(700 Governors Drive)
(Platte, SD 57369)	(Pierre, SD 57501-2291)
AND	
(Hereinafter referred to as Consultant)	(Hereinafter referred to as State)

Accordingly, Grant Agreement Number 2009G-619 is hereby amended as follows:

Section II.A. is revised to read as follows:

II. THE STATE:

The State will make a total payment to the Grantee in an amount not to exceed \$1,665,707.27 for the purpose of carrying out the provisions set forth in this agreement. The Grantee agrees all payments issued under this agreement will be made in accordance with the attached budget, incorporated herein as Attachment A. The Grantee may exceed individual budget line items by up to 10 percent without approval from the State. Budget line item transfers that exceed a line item by more than 10 percent are required to have prior written approval from the State. Any deviations from the budget, in terms of additional budget line items or capital expenditures, require written approval by the State prior to the expense being incurred. Payments under this agreement will be made in monthly installments as described below; however, each payment is contingent upon the continued availability of funding.

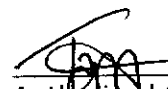
The State agrees to make monthly fixed installments in the amount of \$40,000.00. Additional installments will be made monthly based upon receipt of a detailed invoice submitted by the Grantee that documents actual expenses incurred and matching documentation as required in Section III.B. below. The fixed installment amount will be deducted from the additional installments. Payment will be made upon approval of all required documentation.

The subsequent years' Grant awards are contingent upon continued federal funding and the satisfactory completion of the previous year's activities.

In witness hereto the parties signify their agreement by signature affixed below:

 3-1-10

Authorizing Official Signature (Date)

 3/3/10

Authorized State Representative (Date)
Department of Education

✓ State Agency Coding: (Center/Company/Account)

State Agency contact who can provide additional
information regarding this contract:

1232050366S0/1000/520607009
1201190366S0/2024/520607009
1201190881GU/3138/520607009
1201190366SC/2024/520607008
Rob Huffman (605)-773-4600

DEPARTMENT OF EDUCATION
STATE OF SOUTH DAKOTA
GRANT AGREEMENT
BETWEEN

(Oceti Sakowin Education Consortium) (Office of Secretary)
(PO Box 228) AND (700 Governors Drive)
(Platte, SD 57369) (Pierre, SD 57501-2291)
(Hereinafter referred to as Grantee) (Hereinafter referred to as State)

The State hereby enters into a Grant Agreement with the Grantee.

I. THE GRANTEE:


- A. The project period on this agreement shall commence September 1, 2009 and shall end August 31, 2010.
- B. The Grantee agrees to perform the following activities:
 1. Add additional programming and opportunities to the current Gear Up summer program.
 2. Work with other foundations, tribes and businesses to develop new partnerships to extend and expand the programming offered.
- C. The Grantee understands and agrees that granted funds are to be used for purposes set forth in the application, and that the work will be performed in accordance with applicable federal and administrative rules governing the provisions of special education and related services.

II. THE STATE:

- A. The State will make a total payment to the Grantee in an amount not to exceed \$50,000.00 for the purposes of carrying out the provisions set forth in this agreement. Payment will be made based upon receipt of a detailed invoice submitted by the Grantee.
- B. The State will not pay Consultant expenses as a separate item.

In witness hereto the parties signify their agreement by signature affixed below:

 3-1-10
Authorizing Official Signature (Date)

 3/3/10
Authorized State Representative (Date)
Department of Education

State Agency Coding: (Center/Company/Account)
State Agency contact who can provide additional
information regarding this contract:

1201190881GU/3128/520607009

Rob Huffman (605)-773-4600

DEPARTMENT OF EDUCATION
STATE OF SOUTH DAKOTA
GRANT AGREEMENT
BETWEEN

(Oceti Sakowin Education Consortium) (Office of the Secretary)
(PO Box 228) AND (700 Governors Drive)
(Platte, SD 57369) (Pierre, SD 57501-2291)

(Hereinafter referred to as Grantee) (Hereinafter referred to as State)

The State hereby enters into a Grant Agreement with the Grantee.

I. THE GRANTEE:

A. The project period on this agreement shall commence September 1, 2010 and shall end August 31, 2011.

B. The Purpose of the agreement is to:

Implement the State's Gaining Early Awareness and Readiness for Undergraduate Programs (SD GEAR UP) program, as authorized under P.L.105-244, Title IV, Part A, Subpart 2 Chapter 2 of the Higher Education Act of 1965, as amended.

C. The Grantee agrees to perform the following activities:

1. Develop and deliver Middle School Summer Transition Workshops targeting 490 7th grade students on eight (8) reservations and in the Rapid City area. Those targeted areas and accompanying partner schools are as follows:
 - a) Rapid City
 - b) Pine Ridge (Crazy Horse, American Horse, Little Wound, Porcupine, Wounded Knee, Shannon County Schools, Pine Ridge, Loneman, Red Cloud, Our Lady of Lourdes)
 - c) Rosebud (Todd County Schools, St. Francis Indian Schools)
 - d) Crow Creek (Crow Creek Tribal School)
 - e) Lower Brule (Lower Brule School)
 - f) Cheyenne River (Takini, Eagle Butte)
 - g) Lake Traverse (Tiospa Zina, Enemy Swim Day School)
 - h) Yankton (Marty Indian School)
 - i) Standing Rock (Smee School District)
2. Deliver a summer residential High School Mentor Program for 125 students.
3. Develop and disseminate higher education, academic planning, and financial aid based resources to partner schools, SD GEAR UP participants and their families.
 - a) Disseminate the opportunities and capacities of the Bridges career software to SD GEAR UP families and participants;
 - b) Coordinate and deliver parental support workshops in collaboration with all school parent-school coordinators; and,

DEPARTMENT OF EDUCATION
STATE OF SOUTH DAKOTA
GRANT AGREEMENT
BETWEEN

(Oceti Sakowin Education Consortium)	(Office of the Secretary)
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(Platte, SD 57369)	(Pierre, SD 57501-2291)

- c) Publish parental support information related to higher education, academic planning, and financial aid in a quarterly newsletter.
- 4. Create and provide professional development workshops for participating SD GEAR UP Schools targeted at middle/junior high to high school student transition for school designated transition personnel.
- 5. Designate a local site coordinator at each partner SD GEAR UP school in which to disseminate activities, information, work with students, families, and school staff on activities and projects directly related to the goals and objectives of SD GEAR UP.
 - a) Facilitate at least two (2) SD GEAR UP site coordinator meetings.
 - b) Utilize Career Cruising software with SD GEAR UP students to increase career awareness, inform students about academic preparation, and expose students to financial aid related information for higher education.
 - c) Provide information to partner schools related to distance education curriculum that could be used to enhance partner school curriculum as requested from partner schools.
- 6. Collaborate with South Dakota Board of Regents post-secondary educational institutions and identifiable tribal college partners on high school to post-secondary educational transition programs. These programs will include but are not limited to pre-college enrichment programs (i.e. Upward Bound), college readiness, and other programs aimed at college readiness for students of the target population.
- 7. Provide appropriate reporting data to State Project Director and the State contracted evaluator, as the State and contracted evaluator may reasonably require.
- 8. Participate in National meetings regarding the Gaining Early Awareness and Readiness for Undergraduate Programs (GEAR UP).
- 9. Maintain Mid-Central Educational Cooperative as the Grantee's fiscal agent. The Grantee must have written approval from the State if any change is to be made regarding the fiscal agent. The Grantee and the fiscal agent will use such fiscal control and fund accounting procedures as will ensure proper disbursement of, and accounting for, Federal funds paid to the Grantee under the GEAR UP program. The Grantee and the fiscal agent will maintain such records, provide such information, and afford such access to the records as the State may reasonably require to carry out the State agency's duties.

DEPARTMENT OF EDUCATION
STATE OF SOUTH DAKOTA
GRANT AGREEMENT
BETWEEN

(Oceti Sakowin Education Consortium)	(Office of the Secretary)
(PO Box 228)	AND (700 Governors Drive)
(Platte, SD 57369)	(Pierre, SD 57501-2291)

10. It is anticipated that this will be a six (6) year grant which will be renewed annually with an ultimate end date of August 31, 2011. The Grantee must provide to the State a new budget by July 1 for the forthcoming year. The new budget must include the Grantee's anticipated expenditures and match.
 11. The Grantee will ensure that information is collected in order to complete the SD GEAR UP annual project report by the date identified by the United States Department of Education and will complete any interim reports as requested by the South Dakota Program Officers at the United States Department of Education.
 12. When issuing statements, press releases, request for proposals, bid solicitations, and other documents describing projects or programs funded in whole or in part with Gaining Early Awareness and Readiness for Undergraduate Programs (GEAR UP) funds, Grantee must follow special conditions as described in Attachment B.
 13. If the Grantee chooses to provide services or other benefits to private school children under the SD GEAR UP program, those services or benefits must be secular, neutral, and non-ideological.
 14. The Grantee will adopt and use proper methods of administering this program, including the enforcement of any obligations imposed by law for carrying out this program and the correction of deficiencies in program operations that are identified through audits, monitoring, or evaluation.
 15. Refer to Attachment A – Budget; Attachment B – Special Conditions for Disclosing Federal Funding in Public Announcements; Attachment C – Gaining Early Awareness and Readiness for Undergraduate Programs (GEAR UP), Office of Post Secondary Education, United State Department of Education; Attachment D – Statement of Assurances which are part of this contract.
- D. The Grantee understands and agrees that granted funds are to be used for purposes set forth in the application, and that the work will be performed in accordance with PL 105-244, Title IV, Part A, Subpart 2 Chapter 2 of the Higher Education Act of 1965, as amended; OMB Circulars A-87 and A-133; and Edgar as applicable. The undersigned is authorized to commit applicant to abide by the attached Certified Assurances incorporated herein as Attachments D.

Federal funds will be used to increase the level of State, local, and other non-Federal funds that would, in the absence of federal funds, be made available, and in no case supplant such State, local, and other non-Federal funds.

DEPARTMENT OF EDUCATION
STATE OF SOUTH DAKOTA
GRANT AGREEMENT
BETWEEN

(Oceti Sakowin Education Consortium)	(Office of the Secretary)
(PO Box 228)	AND (700 Governors Drive)
(Platte, SD 57369)	(Pierre, SD 57501-2291)

- E. The Grantee agrees to hold harmless and indemnify the State of South Dakota, its officers, agents and employees, from and against any and all actions, suits, damages, liability or other proceedings which may arise as a result of performing services hereunder. This section does not require the Grantee to be responsible for or defend against claims or damages arising solely from acts or omissions of the State, its officers or employees.
- F. The Grantee agrees to provide services in compliance with the Americans with Disabilities Act of 1990.

II. THE STATE:

The State will make a total payment to the Grantee in an amount not to exceed \$1,341,180.00 for the purpose of carrying out the provisions set forth in this agreement. The Grantee agrees all payments issued under this agreement will be made in accordance with the attached budget, incorporated herein as Attachment A. The Grantee may exceed individual budget line items by up to 10 percent without approval from the State. Budget line item transfers that exceed a line item by more than 10 percent are required to have prior written approval from the State. Any deviations from the budget, in terms of additional budget line items or capital expenditures, require written approval by the State prior to the expense being incurred. Payments under this agreement will be made in monthly installments as described below; however, each payment is contingent upon the continued availability of funding.

The State agrees to make monthly fixed installments in the amount of \$40,000.00. Additional installments will be made monthly based upon receipt of a detailed invoice submitted by the Grantee that documents actual expenses incurred and matching documentation as required in Section III.B. below. The fixed installment amount will be deducted from the additional installments. Payment will be made upon approval of all required documentation.

The subsequent years' Grant awards are contingent upon continued federal funding and the satisfactory completion of the previous year's activities.

III. MATCHING REQUIREMENTS:

- A. Federal grant funds must be matched at a rate of 100% by the State and Grantee per the United States Department of Education SD GEAR UP matching requirements as described in Attachment C, incorporated herein as a part of this agreement.
- B. For Year 6, the Grantee must submit to the State detailed documentation of a minimum 90% match for all expenses incurred through the end of the grant agreement, as required in Section II. above. The Grantee must submit to the State, all accumulated detailed match documentation with each invoice submitted. The final installment will be withheld

DEPARTMENT OF EDUCATION
STATE OF SOUTH DAKOTA
GRANT AGREEMENT
BETWEEN

(Oceti Sakowin Education Consortium)	(Office of the Secretary)
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(Platte, SD 57369)	(Pierre, SD 57501-2291)

by the State until matching documentation has been received and approved by the State. The Grantee's match amount may be subject to adjustment upon written request submitted by the Grantee and written approval rendered by the State. Matching amount for subsequent years may vary depending on the availability of State funding.

- C. Federal funding for the SD GEAR UP program is based on the continued availability of matching funds. This agreement will be suspended if it is determined by the State that the State and/or Grantee does not have the required matching funds, until such a time that additional matching funds become available.

IV. ASSURANCES AND CERTIFICATION STATEMENT:

The above named Grantee assures the South Dakota Department of Education that this grant will be administered in compliance with the terms and conditions contained in this agreement, and with all state and federal statutes and regulations applicable to the use of these funds.

V. AMENDMENT PROVISION

This agreement contains the entire agreement between the parties, and is subject to and will be construed under the laws of the State of South Dakota, and may be amended only in writing signed by both parties.

VI. TERMINATION PROVISION

This agreement can be terminated upon thirty (30) days written notice by either party and may be terminated for cause by the State at any time with or without notice.

VII. DEFAULT PROVISION

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 the law or federal funds reduction, 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.

VIII. CONTROLLING LAW PROVISION

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.

DEPARTMENT OF EDUCATION
STATE OF SOUTH DAKOTA
GRANT AGREEMENT
BETWEEN

(Oceti Sakowin Education Consortium)	(Office of the Secretary)
(PO Box 228)	AND (700 Governors Drive)
(Platte, SD 57369)	(Pierre, SD 57501-2291)

IX. SEVERABILITY PROVISION

In the event that any provision of this agreement shall be held unenforceable or invalid by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

X. INSURANCE PROVISION

The Grantee agrees, at its sole cost and expense, to obtain and maintain adequate levels of commercial liability, business automobile liability and worker's compensation insurance required by the State during the period of this agreement. Certificates of insurance may be required.

XI. EQUAL EMPLOYMENT OPPORTUNITY CLAUSE: Grantee is required to comply with E.O. 11246, "Equal Employment Opportunity", as amended by E.O. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR Part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

XII. NONDISCRIMINATION CLAUSE: Grantee agrees to comply with all Federal statutes relating to non-discrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. 1681-1683 and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) Sections 523 and 527 of the Public Health Services Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply.

DEPARTMENT OF EDUCATION
STATE OF SOUTH DAKOTA
GRANT AGREEMENT
BETWEEN

(Oceti Sakowin Education Consortium)	(Office of the Secretary)
(PO Box 228)	AND (700 Governors Drive)
(Platte, SD 57369)	(Pierre, SD 57501-2291)

- XIII. DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION PROVISION: Grantee certifies, by signing this agreement, that neither the Consultant nor the Consultant's principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- XIV. CLEAN AIR AND FEDERAL WATER POLLUTION PROVISION: Grantee is required to comply with the Clean Air Act (U.S.C. 7401 et. seq.), and the Federal Water Pollution Control Act (33 U.S.C. 1251 et. seq.) as amended.
- XV. BYRD ANTI-LOBBYING PROVISION: Grantee certifies to the State that it does not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant or any other awards covered by 31 U.S.C. 1352. Lobbying with non-federal funds that takes place in connections with obtaining any federal award must also be disclosed to the State.

In witness hereto the parties signify their agreement by signature affixed below:

 9-15-10

Authorizing Official Signature (Date)

 10/18/10

Authorized State Representative (Date)
Department of Education

State Agency Coding: (Center/Company/Account)
State Agency contact who can provide additional
information regarding this contract:

1201190366S0/1000/52060700Z
1201190366S0/2024/52060700Z
LuAnn Werdel (605)-773-3783

GEAR UP-OSEC Agreement Budget for Year 6 Ending August 31, 2011				ATTACHMENT A	
Budget Line Items	Description	Budget Breakdown	Budget Line Item Totals	Year 6 Match	Match Line Item Totals
Salaries					
	Stacy Phelps 100%	75,000.00			
	Korinna Phelps	52,000.00		6,000.00	
	Cassie Brewer	46,000.00		6,000.00	
	Daria Lerdal	45,000.00		3,000.00	
	Misty Mousseau	36,000.00		3,000.00	
	Jay Roman	60,000.00		5,000.00	
	Leslie Heathershaw	46,000.00		6,000.00	
	HS Summer Staff	148,000.00		90,000.00	
	Other Salaries & Fringe			65,000.00	
Line Item Subtotal			508,000.00		184,000.00
Benefits					
	fringe (7.65%)	11,322.00			
	fringe (30%)	108,000.00			
Line Item Subtotal			119,322.00		
Purchase Services					
	MS Partner Grants	230,200.00		450,000.00	
	HS Partner Grants				
	Midcentral Admin Fees	69,368.00		69,368.00	
	Summer Bus Rentals	8,000.00			
	HS Summer Food	75,000.00		22,000.00	
	HS Dorms & Facilities	53,500.00			
	Kyle Office Rental	4,800.00			
	OSEC Gear Up Liability	7,000.00			
Line Item Subtotal			447,868.00		541,368.00
Travel					
	Staff Travel	34,500.00		100,000.00	
Line Item Subtotal			34,500.00		100,000.00
Materials & Supplies					
	Office Supplies	21,990.00		100,000.00	
	Phone/Copier/Telcom	7,250.00			
	Media Publications	15,000.00			
Line Item Subtotal			44,240.00		100,000.00
Training					
	Teacher Training				
Line Item Subtotal					
Budget Totals		1,153,930.00	1,153,930.00	925,368.00	925,368.00

GEAR UP BUDGET YEAR 6			
Category	OSEC GEAR UP Funds	State Funds Paid to OSEC	OSEC Match
Salaries	508,000.00		184,000.00
Benefits	119,322.00		
Purchase Services	447,868.00	125,000.00	541,368.00
Travel	34,500.00	30,000.00	100,000.00
Materials & Supplies	44,240.00	32,250.00	100,000.00
Training	-		
Totals	1,153,930.00	187,250.00	925,368.00

Agreement amount

1,341,180.00

Total Match

1,112,618.00

Total State Funds

187,250.00

ATTACHMENT B

SPECIAL CONDITIONS FOR DISCLOSING FEDERAL FUNDING IN PUBLIC ANNOUNCEMENTS

When issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving federal funds included in this Act, including, but not limited to State and local governments and recipients of Federal research grants, shall clearly state:

- 1) the percentage of total costs of the program or project which will be financed with Federal money;
- 2) the dollar amount of Federal funds for the project or program; and
- 3) percentage and dollar amount of the total costs of the project or program that will be financed by non-governmental sources.

Recipients must comply with these conditions under Public Law 108-792 Sec. 506, the "Consolidated Appropriations Act, 2005", December 8, 2004.

**GAINING EARLY AWARENESS AND READINESS FOR
UNDERGRADUATE PROGRAMS (GEAR UP),
OFFICE OF POSTSECONDARY EDUCATION,
UNITED STATES DEPARTMENT OF EDUCATION**

Matching Requirements

What are the matching requirements for the GEAR UP program?

- **Dollar-for-dollar match:** Section 404C(b) of the Higher Education Act requires that at least 50 percent of the *total cost* of a GEAR UP project to be paid with State, local, institutional, or private funds (*i.e.*, for each dollar of Federal funds received, at least one dollar of State or private funds must be contributed). Matching contributions can be in the form of cash or documented in-kind contributions.
- **Contributions that exceed the statutory minimum:** Some GEAR UP grantees proposed in their applications matching contributions exceeding the statutory minimum. Under the GEAR UP regulations at 34 CFR 694.7(a)(2), a grantee is obligated to contribute the entire amount of match stated in its application, even if the amount exceeds the statutory requirement.
- **Timing of contributions:** Grantees are required by the GEAR UP regulations at 34 CFR 694.7(a)(2) to comply with the matching percentage stated in their applications *for each individual year* of the grant. In other words, grantees must make their matching contributions in the year designated in their applications. Federal grants are subject to audit at any time during the grant period, and auditors may look at matching contributions before the end of the grant period. Accordingly, grantees cannot fail to make matching contributions in the early years of a grant and then "catch up" in the final year or two of the grant.

What are the consequences for failure to provide matching dollars as proposed in the application?

- **Potential consequences:** Failure to provide the level of cost sharing reflected in the approved award budget may result in the reduction of the Federal award amount, a refund of Federal funds to the Department of Education, or possible termination of the award.
- **Audits:** Cost sharing commitments are subject to audit, including audit by the Inspector General's office.

What types of matching contributions count toward the GEAR UP matching requirement?

- **Types of matching:** The following three types of matching are authorized specifically by Section 404C(c) of the Higher Education Act:
 1. **Financial assistance:** The amount of financial assistance paid to students from State, local, institutional, or private funds;
 2. **Waivers:** The amount of tuition, fees, room, or board waived or reduced for GEAR UP students; and
 3. **Early intervention activities:** The amount expended on *documented*, targeted, long-term mentoring and counseling provided by volunteers or paid staff of nonschool organizations, including businesses, religious organizations, community groups, postsecondary educational organizations, nonprofit and philanthropic organizations, and other organizations.
- **Applicable cost principles:** Any items that would be allowable under the applicable cost principles if charged directly to the grant may be included as match for the grantee's cost sharing requirement. Please review OMB circulars that apply to your type of organization.¹ Requirements from these circulars, such as requirements that costs be reasonable, allocable, and consistent, apply to matching as well as direct costs.
- **Indirect costs:** A GEAR UP grantee may charge indirect costs of eight percent or the grantee's negotiated indirect cost rate (whichever is less) of allowable Federal direct costs and of allowable matching contributions. Indirect costs cannot be charged for scholarship components of grants. The grantee must have an approved indirect cost rate agreement in order to charge indirect cost to its project. However, unrecovered indirect costs cannot be counted as matching funds. For example, if a grantee has a negotiated indirect cost rate of 40 percent, the grantee may charge up to eight percent of the Federal direct costs and matching costs (excluding scholarship funds) to the grant as indirect costs.

¹ For States, local governments, and Indian tribes, the applicable OMB circulars are A-87, A-102, and A-133; for educational institutions (even if part of a State or local government) the applicable OMB circulars are A-21, A-110, and A-133; and for non-profit organizations, the applicable OMB circulars are A-122, A-110, and A-133.

What are appropriate sources of matching contributions?

- **Sources of matching contributions:** Matching contributions may be made from any non-Federal source, including non-Federal grants. (Under the Education Department General Administrative Regulations "EDGAR" 34 CFR 80.24, matching or cost sharing requirements may be satisfied by (1) allowable costs incurred by the grantee and/or (2) the value of third party in-kind contributions.)
- **Changes in the source of matching contributions:** If a grantee finds that one or more of the partners in its original grant application is not meeting commitments to the GEAR UP project, the grantee may find a new partner to provide additional resources. In such cases, the grantee's project officer should be notified.

Are there any limitations with respect to matching contributions?

- **Matching contributions can be counted only one time:** A matching contribution may be counted as cost sharing towards only one Federal project. If a grantee has multiple Federal grants, the same contributions cannot be counted as cost sharing for two or more Federal grants (including multiple GEAR UP grants).
- **Matching contributions must be incurred solely to advance the GEAR UP project:** If matching contributions benefit both a GEAR UP project and another project or entity, the matching contribution must be credited in the proportion that it benefits the GEAR UP project. For example, if a GEAR UP partner hires a tutor to work with GEAR UP students and students that are not in the GEAR UP cohort, only the time that the tutor spends with GEAR UP students may be counted as match. Also, please note that if a GEAR UP project staff member divides his or her time between a GEAR UP project and another activity (including another GEAR UP project), time and effort reports must reflect the percentage of time devoted to the GEAR UP project.
- **Matching contributions cannot be shifted from one project to another:** Grantees that have more than one Federal grant, including more than one GEAR UP grant, must document match separately for each grant. Matching contributions cannot be shifted from one project to another.
- **Matching contributions must be obligated during the grant period:** Matching contributions must be obligated during the grant period. In the case of scholarship money that will not be awarded until after the grant period, matching contributions should be placed in a trust fund or otherwise set aside for the benefit of the GEAR UP cohort during the grant period.

How should grantees document matching contributions?

- **Documentation of a match:** To avoid potential audit findings, documentation of match should:
 1. Capture the cost sharing identified with a particular project;
 2. Contain adequate source documentation for claimed cost sharing;
 3. Provide clear valuation of in-kind documentation; and
 4. Provide support of cost sharing by grant partners.
- **Fiscal agent:** The fiscal agent of a GEAR UP project is responsible for documentation of all matching contributions for the entire grant – even matching provided by its partners. In the event that a grantee is audited, documentation of the match should be housed with the fiscal agent. (See EDGAR, 34 CFR 75.730).
- **Valuation of in-kind contributions:** Costs and third party in-kind contributions counting toward a matching requirement must be verifiable from the records of the grantee and must show how the value of third-party contributions was derived. (See EDGAR 34 CFR 80.24(a)(6).) *Note: Please review applicable OMB circulars and EDGAR for details regarding how to value in-kind contributions. Requirements vary by type of organization, and by whether the donation came from the grantee or a third party. In most cases, grantees are required to value in-kind contributions of facilities and equipment using depreciation or use allowance rather than fair market value.*

Are there any exceptions to the minimum statutory match?

- **Reduced matching:** In a limited number of cases, some grantees may be eligible for an exemption from part of the statutory matching requirement. Partnerships that meet the eligibility requirements under the GEAR UP regulations at 34 CFR 694.7(b)(2) may request waivers in their applications for funding, and their budgets must reflect the reduced cost share levels. As with all grantees, GEAR UP grantees that are eligible for this waiver are held to the amount of match indicated in their applications.

STATEMENT OF ASSURANCES

GENERAL ASSURANCES:

The grantee hereby assures the South Dakota Department of Education that:

1. Each program will be administered in accordance with all applicable statutes, regulations, program plans, and applications.
2. The control of funds provided under each program and title to property acquired with program funds will be in a public agency or in a nonprofit private agency, institution, organization, or Indian tribe, if the law authorizing the program provides for assistance to those entities.
3. The public agency, nonprofit private agency, institution, or organization, or Indian tribe will administer the funds and property to the extent required by the authorizing statutes.
4. The grantee will adopt and use proper methods of administering each such program, including —
 - the enforcement of any obligations imposed by law on agencies, institutions, organizations, and other recipients responsible for carrying out each program; and
 - the correction of deficiencies in program operations that are identified through audits, monitoring, or evaluation.
5. The grantee will cooperate in carrying out any evaluation of each such program conducted by or for the State educational agency, the Secretary, or other Federal officials.
6. The grantee will use such fiscal control and fund accounting procedures as will ensure proper disbursement of, and accounting for, Federal funds paid to the applicant under each such program.
7. The grantee will —
 - submit such reports to the State educational agency as the State educational agency may require to enable the State educational agency to perform their duties under each such program; and
 - maintain such records, provide such information, and afford such access to the records as the State educational agency may reasonably require to carry out the State educational agency's duties.
8. Funds will be used to increase the level of State, local, and other non-Federal funds that would, in the absence of federal funds, be made available, and in no case supplant such State, local, and other non-Federal funds.
9. The grantee will provide educational services or other benefits, including materials and equipment, provided under GEAR UP by a Partnership or State that chooses to provide those services or benefits to students attending private schools, must be secular, neutral, and non ideological.

PRO-CHILDREN ACT OF 1994 ASSURANCE

I hereby acknowledge that the grantee of which I am the authorized representative, has adopted the provisions of the Pro-Children Act of 1994. (The Pro-Children Act requires that smoking not be permitted in any indoor facility used routinely or regularly for the provision of "children's services" to persons under age 18, if the services are funded by specified Federal programs either directly or through State or local governments.)

OMB Approval No. 0348-0040

ASSURANCES - NON-CONSTRUCTION PROGRAMS

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0040), Washington, DC 20503

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

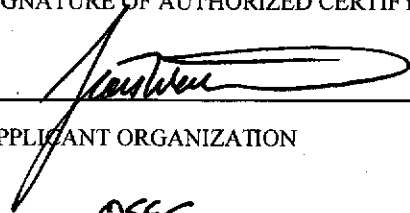
ATTACHMENT D

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management, and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§ 290 dd-3 and 290 ee 3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.
7. Will comply, or has already complied, with the requirements of Titles II and III of the uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
8. Will comply, as applicable, with the provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

ATTACHMENT D

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874) and the Contract Work Hours and Safety Standards Act (40 U.S.C. § 327-333), regarding labor standards for federally assisted construction subagreements.
10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. §7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).
12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §1721 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §469a-1 et seq.).
14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.
15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.
16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, AAudits of States, Local Governments, and Non-Profit Organizations.
18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL 	TITLE <i>Business Manager</i>
APPLICANT ORGANIZATION <i>OSEC</i>	DATE SUBMITTED <i>9-15-10</i>

CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, "New Restrictions on Lobbying," and 34 CFR Part 85, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Education determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over \$100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110--

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (2)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transaction (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 -

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about:

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director, Grants Policy and Oversight Staff, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3652, GSA Regional Office Building No. 3), Washington, DC 20202-4248. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

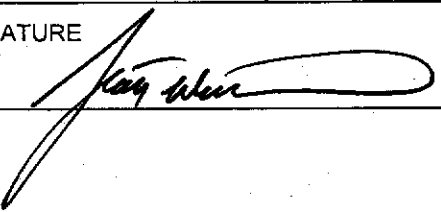
(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

Check ☐ if there are workplaces on file that are not identified here.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

NAME OF APPLICANT <i>OSEC</i>	PR/AWARD NUMBER AND / OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE <i>Scott Westerhuis Business Manager</i>	
SIGNATURE 	DATE <i>9-8-10</i>

DRUG-FREE WORKPLACE (GRANTEES WHO ARE INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610-

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Director, Grants Policy and Oversight Staff, Department of Education, 400 Maryland Avenue, S.W. (Room 3652, GSA Regional Office Building No. 3), Washington, DC 20202-4248. Notice shall include the identification number(s) of each affected grant.

DEPARTMENT OF EDUCATION
STATE OF SOUTH DAKOTA
GRANT AGREEMENT
BETWEEN

(Oceti Sakowin Education Consortium) (Office of the Secretary)
(PO Box 228) AND (800 Governors Drive)
(Platte, SD 57369) (Pierre, SD 57501-2294)
(Hereinafter referred to as Grantee) (Hereinafter referred to as State)

The State hereby enters into a Grant Agreement with the Grantee.

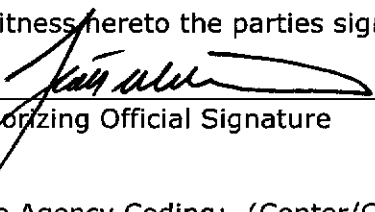
I. THE GRANTEE:

- A. The project period on this agreement shall commence September 1, 2010 and shall end August 31, 2011.
- B. The Grantee agrees to perform the following activities:
 - 1. Add additional programming and opportunities to the current Gear Up summer program.
 - 2. Work with other foundation, tribes and businesses to develop new partnerships to extend and expand the programming offered.
- C. The Grantee understands and agrees that granted funds are to be used for purposes set forth in the application, and that the work will be performed in accordance with applicable federal and administrative rules governing the provisions of special education and related services.

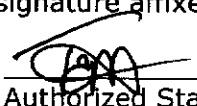
II. THE STATE:

- A. The State will make a total payment to the Grantee in an amount not to exceed \$50,000.00 for the purposes of carrying out the provisions set forth in this agreement. Payment will be made based upon receipt of a detailed invoice submitted by the Grantee.
- B. The State will not pay Consultant expenses as a separate item.

In witness hereto the parties signify their agreement by signature affixed below:



Authorizing Official Signature (Date) 9-15-10

 ID# 110

Authorized State Representative (Date)
Department of Education

State Agency Coding: (Center/Company/Account)
State Agency contact who can provide additional
information regarding this contract:

1201190881GU/3138/52060700Z

LuAnn Werdel (605)-773-3783

DEPARTMENT OF EDUCATION
STATE OF SOUTH DAKOTA
GRANT AGREEMENT AMENDMENT #1
BETWEEN

(Oceti Sakowin Education Consortium) (Office of the Secretary)
(PO Box 228) AND (800 Governors Drive)
(Platte, SD 57369) (Pierre, SD 57501-2294)
(Hereinafter referred to as Grantee) (Hereinafter referred to as State)

Accordingly, Grant Agreement Number 2011G-278 is hereby amended as follows:

Section II.A. is revised to read as follows:

II. THE STATE:

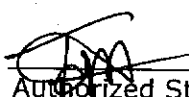
The State will make a total payment to the Grantee in an amount not to exceed \$1,301,180.00 for the purpose of carrying out the provisions set forth in this agreement. The Grantee agrees all payments issued under this agreement will be made in accordance with the attached budget, incorporated herein as Attachment A. The Grantee may exceed individual budget line items by up to 10 percent without approval from the State. Budget line item transfers that exceed a line item by more than 10 percent are required to have prior written approval from the State. Any deviations from the budget, in terms of additional budget line items or capital expenditures, re-quire written approval by the State prior to the expense being incurred. Payments under this agreement will be made in monthly installments as described below; however, each payment is contingent upon the continued availability of funding.

The State agrees to make monthly fixed installments in the amount of \$40,000.00. Additional installments will be made monthly based upon receipt of a detailed invoice submitted by the Grantee that documents actual expenses incurred and matching documentation as required in Section III.B. below. The fixed installment amount will be deducted from the additional installments. Payment will be made upon approval of all required documentation.

The subsequent years' Grant awards are contingent upon continued federal funding and the satisfactory completion of the previous year's activities.

In witness hereto the parties signify their agreement by signature affixed below:


Consultant Signature (Date)

 10/31/11
Authorized State Representative (Date)
Department of Education

State Agency Coding: (Center/Company/Account)
State Agency contact who can provide additional
information regarding this contract:

1201190366S0/1000/520607001
1201190366S0/2024/520607001
Roger Campbell (605) 773-3783