



**WEATHERIZATION ASSISTANCE PROGRAM**  
**Pre-Qualification of Building Shell**  
**Weatherization Service Providers**

**Solicitation No. 2011WXSSP**

Funded through the American Recovery & Reinvestment Act of 2009

**ISSUE DATE: January 4, 2010**

**APPLICATION DUE DATE: Rolling Deadline—See Page 2**

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## Pre-Qualification of Building Shell Weatherization Service Providers Invitation to Submit Applications

<b>Announcement Type</b>	<p>This Invitation to Submit Applications under the Weatherization Assistance Program is issued by the North Carolina State Energy Office ("SEO"), an agency in the Energy Division of the North Carolina Department of Commerce.</p> <p>SEO's Weatherization Assistance Program is funded by monies made available through the American Recovery and Reinvestment Act of 2009 ("ARRA"), Weatherization Assistance Program Formula Grants (Funding Opportunity Number DE-FOA-0000051). SEO grants these funds to 28 local community action agencies and units of government that receive and process weatherization applications and dispatch in-house crews and subcontractors to perform weatherization work. As such, only these 28 sub-grantees may enter into a contract to conduct work for the Weatherization Assistance Program.</p> <p>With this Invitation to Submit Applications, SEO will evaluate each Application in order to create a list of approved subcontractors for the Weatherization Assistance Program (the "Approved Subcontractors List" or the "List"). The SEO will provide this list to its 28 sub-grantees. Subgrantees will have the option of continuing to use their own procurement processes or of using this Approved Subcontractors List to select subcontractors to perform the shell work described herein. However, those sub-grantees that select from this Approved Subcontractors List will be able to contract with Applicants and begin dispatching work immediately while sub-grantees that engage in their own procurement process must submit their selections to the SEO for subsequent approval before a contract may be awarded.</p> <p>Please see Page 18 of this Invitation to Submit Applications for additional information on this pre-qualification process.</p>
<b>Eligible Applicants</b>	<p>Public, for-profit, and 501(c)(3) not-for-profit entities that are licensed General Contractors in the State of North Carolina and able to provide the building shell weatherization services described herein are eligible to apply through this Invitation to Submit Applications.</p>
<b>Statutes, Regulations, Agreements and Guidelines</b>	<p>This Invitation to Submit Applications is funded by monies made available through the American Recovery and Reinvestment Act of 2009 ("ARRA"), Weatherization Assistance Program Formula Grants (Funding Opportunity Number DE-FOA-0000051). The Weatherization Assistance Program Guidelines (10 CFR 440) are incorporated into this Invitation to Submit Applications by reference as though set forth in their entirety herein. Capitalized terms in this Invitation to Submit Applications have meanings ascribed to them in the Guidelines. This Invitation to Submit Applications is governed by ARRA, the agreement between the SEO and the US Department of Energy ("DOE"), identified as DE-EE0000118, 10 CFR 440, 10 CFR 600, all subsequent guidance contained in DOE Weatherization Program Notices, and Federal and State guidelines issued thereunder.</p>
<b>Solicitation Period</b>	January 4, 2011 – December 31, 2011

<b>Project Completion Dates</b>	All projects funded through this Invitation to Submit Applications must be completed by March 31, 2012.
<b>Closing Date(s)</b>	<p>This solicitation (No. 2011WXSSP) has a rolling submission deadline. Applications must be received by 2:00-p.m. on the last business day of each month of calendar year 2011:</p> <ul style="list-style-type: none"> <li>· Monday, January 31, 2011</li> <li>· Monday, February 28, 2011</li> <li>· Thursday, March 31, 2011</li> <li>· Friday, April 29, 2011</li> <li>· Tuesday, May 31, 2011</li> <li>· Thursday, June 30, 2011</li> <li>· Friday, July 29, 2011</li> <li>· Wednesday, August 29, 2011</li> <li>· Friday, September 30, 2011</li> <li>· Monday, October 31, 2011</li> <li>· Wednesday, November 30, 2011</li> <li>· Friday, December 30, 2011</li> </ul> <p>The SEO must receive ALL application materials (both electronic and paper copies) before 2:00-p.m. on the closing date to be opened and evaluated in the two weeks following the closing date. All applications received at or after 2:00-p.m. on the closing date will not be opened and evaluated until the following month's closing date. No applications will be accepted after 2:00-p.m. on Friday, December 30, 2011.</p>
<b>Funding Available Through This Invitation to Submit Applications</b>	<p><b>No awards will be made through this Invitation to Submit Applications and no contracts will be signed. The SEO will evaluate applications to determine each Applicant's qualifications and provide the Approved Subcontractors List to sub-grantees. It will be the option of the sub-grantee to contract with any or none of those businesses on the Approved Subcontractors List . See page 18 of this Invitation to Submit Applications for additional details on available funding and the pre-qualification process.</b></p>
<b>Questions About This Invitation to Submit Applications</b>	<p>To ensure fairness, questions relating to the intent and/or content of this Invitation to Submit Applications must be submitted by email during the Solicitation Period, and answers will be posted periodically on the SEO website (<a href="http://www.energync.net">www.energync.net</a>). Questions should be directed to Yvonne Height at <a href="mailto:yheight@ncommerce.com">yheight@ncommerce.com</a>. No questions will be answered regarding Application status. Information about Applications will not be available until after each month's selections are announced.</p>
<b>Notice of Receipt</b>	<p>Acknowledgement of an Application's receipt will be sent by automatic reply email, or in the case of an Application submitted only in paper format pursuant to a waiver of electronic submission, a notice of receipt will be mailed within 30-days of the date of receipt.</p> <p>The SEO will endeavor to notify Applicants of rejection or of approval and resultant addition to the Approved Subcontractors List within 90-days of the SEO's receipt of their application. The notification letter will be sent via US Postal Service to the contact address listed on the Application Information Form.</p>

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## **INTRODUCTION**

The mission of the North Carolina Weatherization Assistance Program is to improve energy efficiency, household safety and to educate the public about maintaining energy efficiency. Families with income below 200% of the Federal Poverty Level or those receiving cash assistance payments under Work First or Supplemental Security Income are eligible for weatherization services. Priority is placed on providing assistance to the elderly, individuals with disabilities and families with children. The goal of the Weatherization Assistance Program is to keep North Carolina citizens warm in the winter, cool in the summer and safe all year long.

The Weatherization Assistance Program is administered through the State Energy Office ("SEO") in the North Carolina Department of Commerce. The program receives annual funds from the US Department of Energy Office of Energy Efficiency and Renewable Energy and was awarded nearly \$132-million from the American Recovery and Reinvestment Act of 2009 for expenditure in federal fiscal years 2009, 2010 and 2011.

SEO grants funds to 28 local community action agencies and units of government that receive and process weatherization applications and dispatch in-house crews and subcontractors to perform weatherization work. As such, only these 28 sub-grantees may enter into a contract to conduct weatherization work.

With this Invitation to Submit Applications, SEO will evaluate each Application in order to create a list of approved subcontractors for the Weatherization Assistance Program (the "Approved Subcontractors List" or the "List"). The SEO will provide this list to its 28 sub-grantees. Sub-grantees will have the option of continuing to use their own procurement processes or of using this Approved Subcontractors List to select subcontractors to perform the shell work described herein. However, those sub-grantees that select from this Approved Subcontractors List will be able to contract with Applicants and begin dispatching work immediately while sub-grantees that engage in their own procurement process must submit their selections to the SEO for subsequent approval before a contract may be awarded.

To reemphasize, the purpose of this Invitation to Submit Applications:

- At this time, the SEO is only pre-approving providers of weatherization services;
- After a review of each Application, the Approved Subcontractors List, including the services and service areas of the approved subcontractors will be provided to each of the SEO's 28 sub-grantees;
- All service providers must be approved by SEO before contracting with sub-grantee and this invitation to submit applications is a method, but not the only method, to become approved;
- It will be the option of the sub-grantees to contract with any or none of the pre-approved weatherization service providers on the Approved Subcontractors List or to perform their own independent procurement process to select subcontractors. However, when a sub-grantee performs its own procurement process, its selection must be approved by the SEO before a contract may be awarded.

**Please note that any agreement between the sub-grantee and their subcontractors may not be transferred to or contracted out to any other organization.**

## **AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009**

SEO offers this solicitation as part of the federal American Recovery and Reinvestment Act (ARRA) to encourage energy conservation and economic investment in energy technologies. ARRA and U.S. Department of Energy guidelines also require that projects adhere to a number of reporting and project implementation standards that are outlined below.

Be advised that sub-grantees are required to abide by special terms and conditions that apply to all projects funded by ARRA and these requirements may pass some of these terms and conditions on to subcontractors. All projects are subject to monitoring site visits before, during,

and after project completion to verify progress and system operation. Special ARRA provisions affect:

- Reporting, tracking and segregation of incurred costs;
- Reporting on job creation and preservation;
- Publication of information on the Internet;
- Access to records by Inspectors General, Government Accountability Office, Department of Energy, State Auditors' Office and the Office of Budget and Management;
- Prohibition on use of funds for gambling establishments, aquariums, zoos, golf courses or swimming pools;
- Ensuring that Buy American Provisions are followed;
- Ensuring wage rates comply with Davis-Bacon and are comparable to those prevailing on projects of a similar character; and
- Protecting whistleblowers and requiring prompt referral of evidence of a false claim to an appropriate inspector general.

## **ELIGIBILITY REQUIREMENTS**

The SEO is interested in receiving responses from firms capable of providing weatherization services, including:

- Educating clients about health and safety and energy efficiency in homes;
- Professionally evaluating single- and multi-family dwellings and mobile homes for safety and energy efficiency;
- Insulating attics, floors and walls, as needed;
- Making minor repairs to homes for health and safety reasons;
- Installing smoke and carbon monoxide detectors; and
- Performing base load and general heat waste measures.

Please note that the Weatherization Assistance Program is an energy conservation program with emphasis on the health and safety of the client and NOT a housing rehab program. Minor repairs are secondary measures and are not done unless regular weatherization work is needed. As a result, the Weatherization Program DOES NOT:

- Rehabilitate homes;
- Replace all windows or doors;
- Make major home repairs such as new roofs, new floors, plumbing or electrical work;
- Build additions;
- Paint (except in areas disturbed by weatherization work);
- Lay carpet;
- Perform lead-based paint and asbestos abatement; nor
- Perform mold remediation.

Public, for-profit, and 501(c)(3) not-for-profit entities that are financially-sound, adequately insured, licensed General Contractors in the State of North Carolina that have not been debarred, suspended or proposed for debarment/suspension at the federal or State level, who do not have any overdue federal, State, or local tax debts and who are able to provide the building shell weatherization services described herein are eligible to apply through this Invitation to Submit Applications. For additional information on insurance requirements, licenses and how fiscal viability will be evaluated, please see the Application Requirements (page 11) and Evaluation Criteria (page 16) sections of this Invitation to Submit Applications.

## **CANCELLATION**

Any of the following will result in an investigation and, if found to be accurate, the provider will be removed from the qualified weatherization service provider list and may be reported to the Office

of the State Auditor and the appropriate federal Office of the Inspector General for suspension or debarment:

- Reports of sub-standard workmanship or unprofessional behavior;
- Discrimination against or denial of employment to any individual in the performance of any weatherization contract in violation of Equal Opportunity Employment Laws;
- Failure to maintain appropriate working relationships with the client and representatives of the NC Weatherization Assistance Program;
- Failure to adhere to established time schedules for work completion;
- Failure to honor the application and other contract documents;
- Failure to meet reporting and invoicing requirements in a timely manner;
- Failure to maintain insurance coverage, as stated; or
- Failure to maintain the minimum certifications and licenses required, as stated.

## SCOPE OF WORK

Applicants must have the ability to provide all shell weatherization services listed below. If you wish to focus on a specific geographic area, please indicate so by naming the counties you are willing to serve on the required Weatherization Subcontractor Profile and Certification Form.

The sub-grantee performs a comprehensive energy audit documented on the Home Energy Assessment Checklist on every home. As a result of this audit, a scope of work is developed. When shell measures are listed on the scope of work, the sub-grantee will perform a pre- and post-weatherization blower door test will be performed on each house. The results must be documented on the job report. Air leakage diagnosed using the blower door will determine the closure target for the weatherization shell service providers to achieve. All measures to be installed and closure targets will be provided on the Work Order submitted to contracted service providers. After the Work Order is completed, the sub-grantee will conduct a final inspection to ensure all work has been completed properly and materials that were charged to the job were installed, including a post-weatherization blower door test. Jobs that fall at or below the air leakage closure target will be subjected to additional monitoring.

Possible shell measures that might be recommended on the Work Order include:

<b>Single Family, Site Built Homes</b>	<b>Manufactured Homes</b>
<ol style="list-style-type: none"><li>1. Seal major air leaks and bypasses</li><li>2. Insulate and vent attic</li><li>3. Insulate sidewalls</li><li>4. Insulate floors</li><li>5. Insulate ducts/heating pipes</li><li>6. Install general heat waste measures</li><li>7. Install crawlspace vapor barrier</li></ol>	<ol style="list-style-type: none"><li>1. Seal major air leaks and bypasses</li><li>2. Insulate floors</li><li>3. Seal non-major air leaks</li></ol>

A description of each of these measures follows. Unless otherwise noted, the shell services described for site-built homes are the same as for manufactured homes.

NOTE: Windows and doors in extreme disrepair are not considered an air leakage measure, but rather an "incidental repair", as defined in the DOE regulations CFR 440.3 and in the N.C. Health and Safety Plan.

### TASK 1: SEAL MAJOR AIR LEAKS AND BYPASSES

- A. Use the blower door to track air sealing.
- B. Prevent convective and conductive heat loss, which results from the free movement of air between the attic and basement/crawlspace. In addition to the following requirements, ventilated attics must have a post-test zonal pressure of at least 45 Pascals with reference to the house. A visual inspection must be performed in addition to attaining the zonal pressure required above.
  1. Seal bypasses in stud cavities and joist cavities to stop free air movement.

2. Seal partition walls at top and bottom to stop free air movement.
  3. Seal around chimney, plumbing, and electrical chases at top and bottom to stop free air movement.
  4. Seal openings at the sill plate/band joist to stop free air movement.
- C. Prevent convective heat loss which results from large direct openings between the interior and exterior of the house.
1. Replace missing or broken glass, missing windows, missing doors.
  2. Seal holes in ceilings, which communicate directly with the attic.
  3. Seal holes in walls and floors, which communicate directly with the exterior of the house, the basement/crawl space, or with the kneewall attic.
  4. Seal unused flue openings and fireplaces
  5. Construct a removable door for fireplaces, which do not have an operable damper, and are used occasionally.
  6. Check to insure dryer vents are non-combustible, clean and have no loops in vent hose.
  7. Seal or damper dryer vents, kitchen exhaust fans, window air conditioners, utility penetrations etc. to the outside of the building shell.
  8. All kitchen and bath fans currently venting into the attic must be vented to the outdoors through roof fittings. Fans without operating back draft dampers must be repaired, equipped with back draft dampers, or the fan must be replaced. Check new fans for proper damper operation.
  9. All exhaust fans must be repaired or replaced if not working, if replaced it must be vented to the outdoors.
  10. If there is a working re-circulation fan it may be replaced with one that vents outdoors.
  11. All gas ranges must have an exhaust fan vented to the outdoors.
  12. Any kitchen range vents that are repaired or replaced must be vented with rigid pipe.
- D. A continuous ground cover with a minimum thickness of 6 mil. will be installed in enclosed crawlspaces to prevent the diffusion of soil moisture into the building materials.

#### TASK 2: INSULATE AND VENT ATTIC

- A. Insulation will be installed in attic areas located directly above heated areas as follows:

<b>Table 1: Recommended Post-Weatherization Attic Insulation Values</b>		
<b>Space Heating Fuel</b>	<b>REGION 1 (West, Central, Northeast)</b>	<b>REGION 2 (Coastal)</b>
Electric Heat Pump	R-38	R-30
Oil	R-38	R-30
Natural Gas	R-38	R-30
Propane (Butane)	R-38	R-38
Electric Resistance	R-38	R-38

Reasons for not being able to insulate to the standards as specified in Table 1 must be documented in the client file.

- B. A three inch (3-in) minimum clearance from insulation or other combustible materials must be maintained with a permanent blocking material around all chimneys and flues. A three (3) inch minimum clearance from cellulose and paper backed fiberglass insulation must be maintained with a permanent blocking material around recessed light fixtures, transformers, furnaces, and any other heat producing device. Neither insulation nor blocking material may cover these devices. Chimney chases must be sealed with metal flashing and high temperature caulk.
- C. Permanent blocking material will be installed around trap doors or scuttles so as to restrain insulation from falling through these openings. The attic side of trap doors, scuttles, and pull

- down staircases must be insulated with a minimum of R-30 fiberglass batt or some other suitable insulation. Weather-strip the trap door or attic scuttle.
- D. Weather strip kneewall access doors. Attic side of kneewalls must be air sealed and insulated to minimum R-13.
  - E. Free circulation of air through suffix vents must be ensured either through the use of blocking materials or by removal of insulation from around the vents. Any pockets or voids in the insulation must be filled so that insulation is of a uniform R value.
  - F. Venting of attic area must be consistent with established attic ventilation standards. Louvered vents will be assumed to have Net Free Area (NFA) of ventilation equal to one-half (1/2) the area of the vent opening, unless otherwise indicated and documented (such as a stamp on the vent package). Non-louvered vents will be assumed to have NFA of ventilation equal to the area of the vent opening, unless otherwise indicated and documented. Turbine vents with a 12-inch throat diameter will be assumed to have NFA equal to 364 square inches. Turbine vents with a 14-inch throat diameter will be assumed to have NFA equal to 432 square inches ( $\text{in}^2$ ).
  - G. Vents must be louvered and/or sealed to prevent rainwater from entering the vent opening.
  - H. If wiring in the attic area appears unsafe due to cracked, blistered, or deteriorated wiring insulation, or if circuits otherwise indicate overloading, the attic shall not be insulated out of consideration for fire hazards until these situations are corrected. Such exceptions must be documented and the burden of evidence will lie with the Local Weatherization Service Provider. Attics containing knob and tube wiring shall be rewired and inspected by a licensed electrician prior to insulating. Ensure all electrical junction boxes are covered and marked prior to insulation.
  - I. Cellulose promotes recycling and, when applied correctly, provides a better sealing effect in the attic area. Blown fiberglass may be used to insulate attics only with prior approval from the Weatherization Assistance Program.

#### TASK 3: INSULATE SIDEWALLS

*Building permits must be secured, where required.*

- A. Fill sidewalls to capacity using the dense pack method to a minimum density of 3.5 pounds per cubic foot. Anything less than a dense pack should be documented, ex. Weak walls that is packed as tight as possible.
- B. Only cellulose insulation shall be used, except that blown fiberglass may be used in a stud cavity adjacent to a chimney or other combustible.
- C. All walls between heated and unheated areas and all walls between heated areas and the exterior of the house must be insulated.
- D. Sidewall insulation must be installed either by removing exterior siding or by drilling holes from the interior of the house.
- E. Where incomplete sidewall insulation exists, insulation will be added to provide complete sidewall coverage. The sub-grantee must ensure that all exterior walls have complete sidewall coverage.
- F. Reasons for exempting walls must be documented, but in no case may any wall or cavity be only partially insulated.
- G. The following exceptions will be allowed, but must be documented, and the burden of proof will lie with the Local Weatherization Service Provider.
  - 1. Existing sidewall insulation;
  - 2. No wall cavity;
  - 3. Knob and tube wiring present in wall cavity, and testing of the wiring indicate unsafe wiring exists and there are insufficient funds available to replace the wiring;
  - 4. Interior and/or exterior wall too weak to withstand pressure of sidewall insulation;
  - 5. Client refusal documented by signed agreement;
  - 6. Existing moisture problems, which cannot be remedied.

#### TASK 4: FLOOR INSULATION

- A. Floor insulation will only be installed under floors separating a heated area from an unheated area.

- B. Floor insulation with an R value of 19 will be installed unless prohibited by the depth of the floor joist; however, insulation will have an R value of no less than 11.
- C. Insulation will have an attached vapor barrier and will be installed with the vapor barrier towards the heated area.
- D. A three (3) inch clearance from heat producing devices will be maintained. Floor insulation will be installed up to and folded onto band joist or joist header. Insulation will be fitted tightly around cross bracing and other obstructions between floor joists.
- E. All floor insulation will be securely fastened to the floor joists so as to prevent sagging of the insulation. Staples will not be allowed as fasteners for floor insulation. Suggested fasteners are chicken wire or wire staves.
- F. Where floor insulation is installed over a crawl space and no foundation wall or underpinning is present, insulation must be protected from vermin, and/or other items that may destroy the insulation. This protection should be done with chicken wire or some other vapor permeable material.
- G. Where floor insulation is pre existing, no insulation will be installed except to replace damaged insulation.
- H. Installation of foundation vents is prohibited except to provide for combustion air appliances.

#### TASK 5: INSULATE DUCTS/HEATING PIPES

- A. Only ducts or pipes located in unheated areas will be insulated. Return and supply ducts/pipes must both be insulated.
  - 1. Where ducts or heating pipes are located in unheated areas with plumbing, provisions must be made to hinder the freezing of plumbing pipes prior to insulation.
  - 2. If a basement has a zonal pressure no higher than 10 Pascals with reference to the house, then the basement may be considered "inside", and duct insulation is not required.
- B. Ducts will be insulated with mineral fiber insulation, bubble wrap insulation or two-part foam with an R value of (6) or greater. Hydronic heating pipes will be insulated with either rigidly closed cell vinyl foam or mineral fiber insulation manufactured for the purpose of insulating pipes. When using mineral fiber insulation, a vapor impermeable wrapping must be applied on the outside of the insulation.
- C. Ducts and heating pipes must not be insulated within three feet (3-ft) of the furnace exhaust stack.
- D. Insulation joints will be tightly butted or overlapped so as to completely surround ducts and pipes. An exception to this will be the case of ducts attached to joists, floors or some other obstacle, which prevents wrapping. In this case, insulation will cover the part of the duct exposed to the winter cold side and will be attached to the barrier if possible. Insulation joints will be taped completely with aluminum tape or some other appropriate permanent fastener.
- E. Where insulation is applied on rectangular ducts, insulation installed on corners will not be compressed more than 50% of its normal thickness.
- F. When ducts and pipes are not completely accessible, all accessible ducts and pipes must be insulated.

#### TASK 6: GENERAL HEAT WASTE

- A. Weather-stripping, caulking, glass patching and insulation for plugging: These low-cost activities target comfort complaints and can be used only after blower door-guided air sealing is completed.
- B. Water heater insulation/pipe insulation
- C. Water heaters will be insulated with mineral fiber insulation with a protective backing attached or bubble wrap insulation with an R value of five (5) or better will be used. Insulation will be applied with the protective backing toward the outside. Please note:
  - 1. ELECTRIC WATER HEATERS: Insulation will be applied to the top and sides of the water heater. The overlapped ends of the protective backing should be sealed, and banded in order to provide an adequate seal. Pressure relief valve shall not be covered. Access panels to thermostat shall be clearly marked.

2. GAS WATER HEATERS: Insulation will be applied to only the sides of the water heater. The overlapped ends of the protective backing should be sealed, and banded in order to provide an adequate seal. Insulation must not cover any of the following: pilot light, cut off valve, access panel to thermostat or heating elements, operating instructions, pressure relief valve, drain, any electrical service wiring, hi limit switch.
- D. Insulation will be installed at least three inches (3-in) off the floor and one inch (1-in) away from the pressure relief valve.
- E. In addition to insulating domestic water heaters, the following measures must be performed:
  1. Thermostats will be lowered to a temperature that the client is comfortable with (120°F is recommended).
  2. The first three feet (3-ft) of the hot water line leading out of the domestic water heater will be insulated and three feet (3-ft) of the cold water line to the hot water heater will be insulated in the same manner and under the same standards as hydronic heating pipes. Water pipes located in unheated areas may be insulated in the same manner and under the same standards as hydronic heating pipes.
  3. The discharge pipe must be properly installed to a minimum of 6-inches from the floor.
- F. Cabinet type water heaters and water heaters labeled with instructions "Do Not Wrap" should not be insulated.
- G. Water heaters located within three feet (3-ft) of furnaces or stoves should not be insulated.

#### TASK 7: INSTALL CRAWLSPACE VAPOR BARRIER

- A. Install a 6-mil opaque polyethylene vapor diffusion barrier across the crawl space floor to prevent soil moisture from migrating into the crawl space. Overlap and seal all seams by 12-inches with mastic. Seal the polyethylene at least 6-inches up the crawl space walls.

## APPLICATION REQUIREMENTS

The response to this Invitation to Submit Applications shall consist of the following sections:

- A. Required Forms
  1. Application Information
  2. Weatherization Subcontractor Profile and Certification
  3. Certification on Lobbying / Office of Historically Underutilized Businesses
  4. Certification on Debarment or Suspension
- B. Corporate Background and Experience
- C. Project Staffing and Organization
- D. Cost Estimate
- E. Attachments
  1. General Contractor License
  2. Business License
  3. Certified Renovator Certification (Lead Safe Work Practices)
  4. Financial Statements
  5. Insurance Certificates
  6. Corporate Conflict of Interest Policy

#### A. Required Forms

This section shall contain all completed and executed (signed) forms required to be returned with each submission. Please include all forms in the order listed above. All required forms may be found in Appendix A.

#### B. Corporate Background and Experience

This section shall not exceed five (5) pages in length.

This section shall include background information on the organization and should give details of experience with similar projects. A list of at least five (5) references (including contact persons

and telephone numbers) for whom similar work has been performed shall be included and the list shall include all similar contracts performed by the Applicant in the past two (2) years, particularly any contracts with Weatherization Assistance Program sub-grantees. The evaluators will randomly select at least three of these references, but the evaluators reserve the right to contact all the references listed, if information from the three references contacted warrant further inquiry.

Additionally, the applicant should use this section to demonstrate their ability to:

- Manage a crew of installers so that weatherization work is conducted safely, effectively and efficiently;
- Ensure that job site and installers comply with lead-safe work practices and OSHA requirements;
- Understand a work order;
- Maintain quality control of weatherization work and ensure it meets program standards;
- Order and obtain materials, supplies and equipment in time to avoid delays and wasted time on the job site; and
- Warehouse materials as necessary to avoid delays in completing weatherization work.

Applicants should also demonstrate that they have the proper tools and equipment to perform diagnostics and install weatherization measures, including:

- **Blower Door** | A powerful fan that mounts into the frame of an exterior door. The fan pulls air out of the house, lowering the air pressure inside. The higher outside air pressure then flows in through all unsealed cracks and openings. The auditors may use a smoke pencil to detect air leaks. These tests determine the air infiltration rate of a building. Blower doors consist of a frame and flexible panel that fit in a doorway and a variable-speed fan.
- **Manometer** | A pressure gauge used to determine air leaks in building and duct systems. They can also be used to test combustion appliances for adequate draft and perform zonal pressure diagnostics.
- **Pressure Pan** | A duct leakage diagnostic tool which is used along with a Blower Door to identify exterior air leaks in forced air duct systems. Pressure pans do not directly measure leakage rates. Rather, a pressure pan is used to measure the pressure difference between the house and a duct run during a Blower Door test. This pressure reading can be used to estimate the degree to which a particular duct run is connected to the outside.
- **Insulation Blowing Machine** | all fiber, positive displacement that can blow both cellulose and fiberglass insulation. It must be capable of handling 2000-3000lbs of insulation per hour. The static pressure at the end of hose 2.9 pounds per square inch or 80 inches of water column. The generator used to power the insulation blowing machine must have enough wattage to run the machine. This will usually be above 9500 watts, but manufacturer's recommendation, if higher, should be followed. Please note that most of the insulation machines available for rent at general hardware stores do not have enough power to dense pack a side wall to 3.5 pounds per cubic foot and cannot be used for weatherization.
- **General Construction Tools** | Ladders, drills, hammers, and saws. Subcontractors must also have personal protective equipment such as helmets, gloves, disposable suites, kneepads, and professionally fitted HEPA respirators.

### C. Project Staffing and Organization

This section shall not exceed five (5) pages in length.

This section must include the proposed staffing, deployment and organization of personnel to be assigned to this project. The Applicant shall provide information as to the qualifications and experience of all executive, managerial and legal personnel and laborers to be assigned to this

project, including short biographies citing experience with similar projects and the responsibilities to be assigned to each person. Also, the Applicant shall also list the number of crews on staff, its typical crew size (number of laborers) and estimate how many sites each crew could reasonably complete on a monthly basis. Resumes, training certificates and other supporting documentation may be included in the Other Attachments sections.

#### D. Cost Estimate

This section shall not exceed one (1) page in length.

The applicant should provide an estimate of the labor rate (on a per man-hour basis) for completing the tasks described in the Scope of Work. The rate must include all overhead cost including travel, worker compensation (at Prevailing Wage) equipment, maintenance, administrative costs, and work pay. The applicant shall also list the typical size of each crew and number of crews available for work on Weatherization projects.

Note: The quoted hourly labor rate cannot be charged for time spent installing insulation. For measures involving the installation of insulation or vapor barriers, please record the prices in the chart below. The total per-square-foot price must equal the sum of the labor price and the material price. These price categories should be adequate for installing insulation in most weatherization situations. If a particular category will not apply, indicate by entering "N/A" (not applicable) in the price sections. Please avoid adding any price categories.

Material	Specification	Labor Price (\$ / sq.ft.)	Material Price (\$ / sq.ft.)	Total Price (\$ / sq.ft.)
<b>Attic Insulation</b>				
Blown Cellulose, Site Built Attic	R-38 (from R-0)			
Blown Cellulose, Site Built Attic	R-30			
Blown Cellulose, Site Built Attic	R-19			
Blown Cellulose, Site Built Attic, or under floored attic areas	R-11			
Blown Fiberglass, Site Built Attic	R-38 (from R-0)			
Blown Fiberglass, Site Built Attic	R-30			
Blown Fiberglass, Site Built Attic	R-19			
Blown Fiberglass, Site Built Attic, or under floored attic areas	R-11			
Blown Fiberglass, Roof	Mobile Home			
<b>Sidewall Insulation</b>				
Dense-Packed Cellulose, Sidewall	3 ½" Studs			
Dense-Packed Cellulose, Sidewall	5 ½" Studs			
Kneewall Insulation	3 ½" Studs			
Fiberglass Placement Sidewall	Mobile Home			
<b>Crawlspace Vapor Barrier</b>				
Vapor Barrier, Crawlspace	6-mil poly			

#### E. Attachments

##### **1. General Contractors' License**

The Applicant shall provide proof that their corporate registration with the North Carolina Licensing Board for General Contractors is current. Additionally, the Applicant shall provide proof that all individual qualifiers that will supervise or conduct weatherization work are current in their registration with the NC Licensing Board for General Contractors.

##### **2. Business License**

The Applicant shall provide proof that they are registered appropriately (depending on corporate structure) and are current with the North Carolina Secretary of State, if applicable.

### **3. Certified Renovator Certification (Lead Safe Work Practices)**

The Applicant shall provide a copy of their certification from a training program registered with the Health Hazards Control Unit (HHCU) in the Division of Public Health. After July 31, 2010, all training providers and their renovator courses taught in North Carolina for certification purposes must be accredited by the HHCU, so any out-of-state courses and trainers will require extra review to ensure that they are accredited in North Carolina.

### **4. Financial Statements**

The Applicant shall provide the following financial information:

- Recent audited or reviewed financial statements prepared by an independent certified public accountant (CPA) that shall include, at a minimum, a balance sheet, income statement (i.e., profit/loss statement) and cash flow statement and, if the audited or reviewed financial statements were prepared more than six (6) months prior to the issuance of this Invitation to Submit Applications, the Applicant shall submit its most recent internal financial statements (balance sheet, income statement and cash flow statement or budget with entries reflecting revenues and expenditures from the date of the audited or reviewed financial statements to the end of the most recent financial reporting period (i.e., the quarter or month preceding the issuance date of this Invitation to Submit Applications));or
- Recent compiled financial statements prepared by an independent CPA that shall include, at a minimum, a balance sheet, income statement (i.e., profit/loss statement) and cash flow statement and, if the compiled financial statements were prepared more than three (3) months prior to the issuance of this Invitation to Submit Applications, the Applicant shall submit its most recent internal financial statements (balance sheet, income statement and cash flow statement or budget with entries reflecting revenues and expenditures to date), and other evidence of financial stability such as most recently filed income tax return, evidence of a line of credit/loans/other type of financing with statement of amount in use/outstanding balance (e.g., a complete copy commitment letter, loan agreement, billing statement reflecting the line of credit or statement from lender acknowledging the commitment to fund the Applicant's stated financing), performance bond, personal guaranty with copies of personal income tax filing and statement of net worth or such other evidence that is accurate, reliable and trustworthy regarding the Applicant's financial stability.

Recent shall be defined as financial statements that were prepared within the 12 months preceding the issuance date of this Invitation to Submit Applications.

Consolidated financial statements of the Applicant's parent or related corporation/business entity shall not be considered, unless: (1) the Applicant's actual financial performance for the designated period is separately identified in and/or attached to the consolidated statements; (2) the parent or related corporation/business entity provides the State with a document wherein the parent or related corporation/business entity will be financially responsible for the Applicant's performance of the contract and the consolidated statement demonstrates the parent or related corporation's/business entity's financial ability to perform the contract, financial stability and/or such other financial considerations identified in the evaluation criteria; and/or (3) Applicant provides its own internally prepared financial statements and such other evidence of its own financial stability identified above.

The Applicant's failure to provide any of the above-referenced financial statements or failure to submit all the requested financial statements may result in the rejection of the Applicant's response and rejection is more likely to occur if other Applicants provide financial documentation in compliance with the foregoing provisions. Applicants are also encouraged

to explain any negative financial information in its financial statements and are encouraged to provide documentation supporting those explanations.

All financial information, statements and/or documents provided in response to this Invitation to Submit Applications requirement shall be kept confidential, IF THE APPLICANT COMPLIES WITH PARAGRAPH 13 OF THE GENERAL INFORMATION ON SUBMITTING APPLICATIONS BY MARKING THE FINANCIAL INFORMATION, STATEMENTS AND/OR DOCUMENTS CONFIDENTIAL.

## **5. Insurance Certificates**

The applicant must provide certificates demonstrating insurance coverage for each of the following policies with coverage NOT LESS than the amounts specified below:

- Workers' Compensation and Employer's Liability Coverage must cover all the subcontractor's employees who are engaged in work under the contract; minimum limit of \$500,000.
- Commercial General Liability Coverage on a Comprehensive Broad Form on a occurrence basis in the minimum amount of \$1,000,000 Combined Single Limit. Defense cost shall be in excess of the limit of liability.
- Automobile Liability shall cover all owned, hired and non-owned vehicles used in the performance of this contract. The minimum combined single limit shall be \$500,000 for bodily injury and property damage, \$500,000 for uninsured/under-insured motorist, and \$25,000 for medical payment.
- Pollution Occurrence Liability Insurance to protect against incidental disturbances of environmental pollutants like lead-based paint dust. The policy must provide three basic limits: \$500,000 per occurrence, \$500,000 aggregate for the policy term and \$2,500 deductible per occurrence.
- Workmen's Compensation Insurance must include an employer's liability coverage endorsement with a minimum limit of \$100,000. The insurer must be bound to notify both the company and the subcontractor at least ten (10) days prior to termination of such insurance, or any portion thereof.

## **6. Corporate Conflict of Interest Policy**

The applicant must provide a copy of the company's policy on Conflicts of Interest. At a minimum, the policy must require that:

- No subcontract or procurement will be made with any organization in which any person in an administrative capacity may benefit unless specifically authorized in writing by the contracting agency.
- No subcontract or procurement will be made with any organization in which the immediate family of a person in an administrative capacity with the Subcontractor may benefit unless authorized in writing to do so by the contracting agency.
- No employee or official of the subcontractor shall solicit or accept gratuities, favors or anything of monetary value from contractors, providers or potential subcontractors.

## **7. Other Attachments**

In this section, the applicant may provide additional information to support their Application, such as resumes or training certificates for its employees. This section is optional. Note that no new information should be included in this section since it is not required to be reviewed as part of the evaluation.

# **APPLICATION FORMAT SPECIFICATIONS**

1. All paper copies should be printed double-sided and on recycled paper with a minimum post-consumer content of 30 percent.
2. All pages/sections must be numbered for easy reference.

3. All paper copies should minimize or eliminate the use of non-recyclable or non-reusable materials such as plastic report covers, plastic dividers, vinyl sleeves, and GBC binding. Three-ringed binders, glued materials, paper clips, and staples are acceptable.
4. Materials should be submitted in a format which allows for easy removal and recycling of paper materials.
5. All page margins must be 1.0 inch (2.5 cm) on standard letter-sized paper (8.5-in x 11.0-in).
6. Applications may be single spaced (1.0).
7. No type size smaller than 10 point is to be used for text or tables, except as legends on reduced drawings.
8. Applications should be focused, concise and organized in accordance with the Invitation to Submit Applications requirements.
9. Samples, videotapes, slides, DVDs or other ancillary items will NOT be accepted.
10. Electronic copies of Applications must be generated in PDF format from a text-based file (such as a Microsoft Word or Word Perfect document) so that Applications are searchable. The Application file MUST BE SUBMITTED AS A SINGLE PDF file. Other file formats will NOT be accepted, unless a waiver is granted pursuant to an electronic filing waiver request. Please see the Submission Process section for information on making an electronic filing waiver request.
11. Applicants are encouraged, but not required, for reasons of space conservation and simplicity, to embed graphics within Applications. For graphics submitted as separate files, the acceptable file formats (and the respective extensions) are Graphics Interchange Format (.gif), JPEG (.jpg), and Tagged-Image Format (.tif). Note: Each graphic submitted as a separate file will count as one page in the Application page count, regardless of size.
12. No files larger than 10 MB in size will be accepted.

### **VIRUS CHECK**

The Applicant is responsible for performing a virus check on the electronic copy of the Application prior to submission. As a standard part of entering the Application into its processing system, the SEO will scan each electronic Application for viruses. A Application may be rejected if a virus is detected.

### **CONFIDENTIAL INFORMATION**

All documents submitted to the SEO, including all Application materials, are public records governed by Chapter 132 of the General Statutes and applicable provisions of the General Statutes protecting confidential information. When specific information in an Application is regarded by the Applicant and by law as confidential and not subject to disclosure under the North Carolina Public Records Act (e.g., trade secrets and/or privileged and confidential information), the Applicant should specifically and clearly designate it as such in writing on that portion of the Application in which the information appears with the following notice:

#### **Notice of Restriction on Disclosure and Use of Data**

The data contained in pages \_\_, \_\_, \_\_, and \_\_ of this Application have been submitted in confidence and contain trade secrets or proprietary information, and such data shall be used or disclosed only for evaluation purposes, provided that if this Applicant receives an Award as a result of or in connection with the submission of this Application, the SEO and DOE shall have the right to use or disclose the data here to the extent provided in the Award. This restriction does not limit the government's right to use or disclose data obtained without restriction from any source, including the Applicant.

An Applicant should provide an explanation for why particular information is regarded as confidential. Indiscriminate designations of information as "confidential," such as form language automatically inserted into e-mails or into the margins of documents, will not be regarded as sufficient designations. On pages with mixed confidential and non-confidential information, the Applicant shall add the tag [BEGIN CONFIDENTIAL] on the line before confidential information

starts and the tag [END CONFIDENTIAL] on the line after the confidential information ends. Only information between these two tags will be redacted before being provided as part of a Public Records request.

## EVALUATION CRITERIA

To be accepted onto the list of qualified weatherization service providers, a response to this INVITATION TO SUBMIT APPLICATIONS must receive at least 65-points and have a current business and general contractors' license. Grading for each criterion will occur on a sliding scale up to the listed maximum score unless otherwise noted. Each application may receive a maximum score of 100-points, weighted as follows:

Evaluation Criteria	Max Points
<b>Required Forms:</b> All required forms are completed and executed appropriately.	5
<b>Corporate Background and Experience:</b> Applicant has a history of successfully applying building science principles to weatherize homes.	30
<b>Project Staffing and Organization:</b> Applicant demonstrates the knowledge, skills and abilities required to run a business that successfully complete weatherization shell projects.	30
<b>Cost Estimate:</b> Hourly labor rate and insulation/vapor barrier rates are competitive with previous weatherization service provider subcontractors.	15
<b>Financial Statements:</b> Applicant runs a financial sound operation and demonstrates appropriate knowledge of financial reporting.	10
<b>Insurance Certificates:</b> Applicant provided proof of coverage for all required types of policies and at the required minimum limits (points awarded on all-or-nothing basis).	5
<b>Corporate Conflict of Interest Policy:</b> Policy is attached and adequate (points awarded on all-or-nothing basis).	5
<b>TOTAL</b>	<b>100</b>

The fact that an Applicant may have an existing contract with one or more of the SEO's sub-grantees does not assure that the SEO will approve the subcontractor under this statewide Approved Subcontractors List. The SEO reserves the right to deny approval to any Applicant who does not meet the minimum acceptable score after an evaluation pursuant to the criteria above.

## SUBMISSION PROCESS

An electronic copy of the complete application should be emailed in PDF format to [yheight@ncommerce.com](mailto:yheight@ncommerce.com) by 2:00p.m. on the closing date. The subject line should include only the solicitation number and the Applicant's name. Additionally, a single paper copy of the complete application containing original signatures must be received at the State Energy Office at 1830-A Tillery Place, Raleigh, NC 27604-1586, by 2:00p.m. on the closing date.

NOTE: Only courier services, FedEx, UPS and similar delivery services will deliver directly to 1830-A Tillery Place. For US Postal Service delivery, please send packages to 1340 Mail Service Center, Raleigh, NC 27699-1340. Packages going through the Mail Service Center require an extra two to four days to be received at the State Energy Office. Late packages will be held unopened until the following month's closing date.

### SUBMISSION CHECKLIST

Please submit Application documents in the following order:

**Required Forms:**

- Application Information
- Weatherization Subcontractor Profile and Certification
- Certification on Lobbying / Historically Underutilized Businesses
- Certification on Debarment or Suspension

**Narrative:**

- Corporate Background and Experience
- Project Staffing and Organization
- Cost Estimate

**Attachments:**

- General Contractor License
- Business License
- Certified Renovator Certification
- Financial Statements
- Insurance Certificates
- Corporate Conflict of Interest Policy
- Other Supporting Information (i.e., Resumes, Training Certificates, etc.)

**ELECTRONIC FILING WAIVER**

The Application MUST be submitted electronically to [yheight@ncommerce.com](mailto:yheight@ncommerce.com). However, Applicants not able to obtain Internet access or for whom the electronic filing requirement causes an undue hardship may request a waiver from the electronic filing requirement by writing to:

State Energy Office  
N.C. Department of Commerce  
ATTN: Electronic Submission Waiver Request  
1340 Mail Service Center  
Raleigh, N.C. 27699-1340

In the waiver request, the Applicant must clearly indicate why the electronic filing requirement causes undue hardship and provide a list of all factors that make compliance difficult, expensive or cumbersome. All waiver requests will be handled on a case-by-case basis.

**REVIEW PROCESS**

At 2:00-p.m. on the closing date of each month (see Page 2), all emails and paper copies will be opened and recorded. The review process will proceed in three stages:

1. **Eligibility Review:** Applications will be checked for completeness; incomplete responses will be withheld from further review.
2. **Recommendation by Committee:** Complete responses will be sent to a review committee to be scored per the evaluation criteria on page 17. The review committee will consist of at least three members, comprised of SEO staff and non-SEO experts from the private sector, academia and other governmental agencies who are qualified to determine the merits of the Application. The Committee may recommend an Application for inclusion on the list of pre-qualified building shell weatherization service providers or not recommend an Application.
3. **SEO Review:** The third stage review will be completed by Weatherization Assistance Program staff who will determine which Applications shall be selected based on recommendations of the review committee and feedback from the references provided.

**APPROVED SUBCONTRACTORS LIST**

**No financial awards will be made from this Invitation to Submit Applications.** The SEO will endeavor to notify Applicants of rejection or of approval and resultant addition to the Approved Subcontractors List within 90-days of the SEO's receipt of their application. A letter will be sent via US mail to the contact address listed on the Application Information Form. Approved Applications will be

added to the Approved Subcontractors List and provided to each of the 28 sub-grantees of the Weatherization Assistance Program. **It will be the option of the sub-grantees to select and contract with any or none of the weatherization service providers on the Approved Subcontractors List in their geographical district or to engage in their own procurement process to select shell subcontractors.**

To reemphasize the purpose of this Invitation to Submit Applications:

- At this time, the SEO is only pre-qualifying providers of weatherization services;
- After a review of each Application, a list of qualified service providers, their services and service areas will be provided to each of the 28 sub-grantees (“Approved Subcontractors List”);
- All service providers must be qualified by SEO before contracting with a subcontractor and this invitation to submit applications is a method, but not the only method, to become qualified;
- It will be the option of the sub-grantees to contract with any or none of the pre-qualified weatherization service providers on the Approved Subcontractors List or to perform their own independent procurement process to select subcontractors. However, when a sub-grantee performs its own procurement process, its selection must be approved by the SEO before a contract may be awarded.

## **APPENDIX A – REQUIRED FORMS**

### **CONTENTS**

- Application Information Form
- Weatherization Subcontractor Profile and Certification Form
- Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion Form
- Certification Regarding Lobbying Activities Form / Office of Historically Underutilized Businesses

## APPLICATION INFORMATION FORM

*This page must be filled out and returned with your application. Failure to do so may subject your application to rejection.  
Unsigned Applications will NOT be considered.*

By signing this form, the potential subcontractor certifies the following: (Please initial each item.)

- This application is signed by an authorized representative of the firm;
- The potential subcontractor certifies that neither it nor any of its principals is presently debarred, suspended, proposed for debarment, declared ineligible, nor voluntarily excluded from participation in this transaction by any State and/or federal department or agency and that it does not have any overdue tax debts at the federal, State or local level.
- The potential subcontractor will maintain the required coverage and minimum insurance limits for the duration of the contract and agrees to provide certificates within ten (10) days of any verification request and add the State Energy Office as a certificate holder on all relevant policies;
- All labor costs, direct and indirect, have been determined and included in the proposed cost.
- The availability of all equipment, materials and supplies associated with performing the services described herein have been determined and included in the proposed cost.
- The potential subcontractor has read and understands the conditions set forth in this Invitation to Submit Applications and agrees to them with no exceptions.

Therefore, in compliance with this Invitation to Submit Applications, and subject to all conditions herein, the undersigned offers and agrees, if this application is accepted within one hundred twenty (120) days from the date of the opening, to furnish the subject services.

NAME OF ORGANIZATION: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CITY, STATE, ZIP: \_\_\_\_\_

TELEPHONE: \_\_\_\_\_ FAXSIMILE: \_\_\_\_\_

EMAIL: \_\_\_\_\_

Principal Place of Business, if different from above:  
\_\_\_\_\_

FEDERAL EMPLOYER IDENTIFICATION NUMBER: \_\_\_\_\_

DUNS NUMBER: \_\_\_\_\_ E-PROCUREMENT REGISTRATION?  YES  NO

**Will any of the work under this contract be performed outside the United States?**  YES  NO  
(If yes, describe in technical application.)

**N.C.G.S. § 133-32 and Executive Order 24** prohibit the offer to, or acceptance by, any State Employee of any gift from anyone with a contract with the State, or from any person seeking to do business with the State. By execution of any response in this procurement, you attest, for your entire organization and its employees or agents, that you are not aware that any such gift has been offered, accepted, or promised by any employees of your organization.

SIGNED: \_\_\_\_\_ DATE: \_\_\_\_\_

NAME (PRINTED): \_\_\_\_\_ TITLE: \_\_\_\_\_

## WEATHERIZATION SUBCONTRACTOR PROFILE AND CERTIFICATION

*This page must be filled out and returned with your application. Failure to do so may subject your application to rejection.*

SOL # 2011WXSSP

CONTRACT PERIOD: January 1, 2011 – March 31, 2012

BUSINESS NAME: \_\_\_\_\_

OWNER'S NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP+4: \_\_\_\_\_

TELEPHONE: \_\_\_\_\_ FACSIMILE: \_\_\_\_\_

EMAIL: \_\_\_\_\_

**BUSINESS STRUCTURE (CHECK THE APPROPRIATE BOX):**

Individual/Sole Proprietor       Corporation       Partnership       Other \_\_\_\_\_

FEDERAL EMPLOYER IDENTIFICATION NUMBER: \_\_\_\_\_

YEARS IN BUSINESS: \_\_\_\_\_ YEARS WEATHERIZATION EXPERIENCE: \_\_\_\_\_

**TYPE OF WORK TO BE PERFORMED (CHECK ALL THAT APPLY):**

Blower door directed air sealing of plumbing, electrical and HVAC penetrations through attic, wall and floor surfaces with appropriate materials

General heat waste measures (i.e., weather-stripping, caulking, glass patching, etc.)

Insulation (Check appropriate areas):       Attic       Floor       Sidewall

Duct sealing and insulation

Water heater and pipe insulation

Crawlspace vapor barrier installation

Other: \_\_\_\_\_

**AREAS TO BE SERVED (CHECK ALL THAT APPLY):**

**Entire State**

<input type="checkbox"/> Alamance	<input type="checkbox"/> Chowan	<input type="checkbox"/> Guilford	<input type="checkbox"/> Mitchell	<input type="checkbox"/> Rutherford
<input type="checkbox"/> Alexander	<input type="checkbox"/> Clay	<input type="checkbox"/> Halifax	<input type="checkbox"/> Montgomery	<input type="checkbox"/> Sampson
<input type="checkbox"/> Alleghany	<input type="checkbox"/> Cleveland	<input type="checkbox"/> Harnett	<input type="checkbox"/> Moore	<input type="checkbox"/> Scotland
<input type="checkbox"/> Anson	<input type="checkbox"/> Columbus	<input type="checkbox"/> Haywood	<input type="checkbox"/> Nash	<input type="checkbox"/> Stanly
<input type="checkbox"/> Ashe	<input type="checkbox"/> Craven	<input type="checkbox"/> Henderson	<input type="checkbox"/> New Hanover	<input type="checkbox"/> Stokes
<input type="checkbox"/> Avery	<input type="checkbox"/> Cumberland	<input type="checkbox"/> Hertford	<input type="checkbox"/> Northampton	<input type="checkbox"/> Surry
<input type="checkbox"/> Beaufort	<input type="checkbox"/> Currituck	<input type="checkbox"/> Hoke	<input type="checkbox"/> Onslow	<input type="checkbox"/> Swain
<input type="checkbox"/> Bertie	<input type="checkbox"/> Dare	<input type="checkbox"/> Hyde	<input type="checkbox"/> Orange	<input type="checkbox"/> Transylvania
<input type="checkbox"/> Bladen	<input type="checkbox"/> Davidson	<input type="checkbox"/> Iredell	<input type="checkbox"/> Pamlico	<input type="checkbox"/> Tyrrell
<input type="checkbox"/> Brunswick	<input type="checkbox"/> Davie	<input type="checkbox"/> Jackson	<input type="checkbox"/> Pasquotank	<input type="checkbox"/> Union
<input type="checkbox"/> Buncombe	<input type="checkbox"/> Duplin	<input type="checkbox"/> Johnston	<input type="checkbox"/> Pender	<input type="checkbox"/> Vance
<input type="checkbox"/> Burke	<input type="checkbox"/> Durham	<input type="checkbox"/> Jones	<input type="checkbox"/> Perquimans	<input type="checkbox"/> Wake
<input type="checkbox"/> Cabarrus	<input type="checkbox"/> Edgecombe	<input type="checkbox"/> Lee	<input type="checkbox"/> Person	<input type="checkbox"/> Warren
<input type="checkbox"/> Caldwell	<input type="checkbox"/> Forsyth	<input type="checkbox"/> Lenoir	<input type="checkbox"/> Pitt	<input type="checkbox"/> Washington
<input type="checkbox"/> Camden	<input type="checkbox"/> Franklin	<input type="checkbox"/> Lincoln	<input type="checkbox"/> Polk	<input type="checkbox"/> Watauga
<input type="checkbox"/> Carteret	<input type="checkbox"/> Gaston	<input type="checkbox"/> McDowell	<input type="checkbox"/> Randolph	<input type="checkbox"/> Wayne
<input type="checkbox"/> Caswell	<input type="checkbox"/> Gates	<input type="checkbox"/> Macon	<input type="checkbox"/> Richmond	<input type="checkbox"/> Wilkes
<input type="checkbox"/> Catawba	<input type="checkbox"/> Graham	<input type="checkbox"/> Madison	<input type="checkbox"/> Robeson	<input type="checkbox"/> Wilson
<input type="checkbox"/> Chatham	<input type="checkbox"/> Granville	<input type="checkbox"/> Martin	<input type="checkbox"/> Rockingham	<input type="checkbox"/> Yadkin
<input type="checkbox"/> Cherokee	<input type="checkbox"/> Greene	<input type="checkbox"/> Mecklenburg	<input type="checkbox"/> Rowan	<input type="checkbox"/> Yancey

## **WEATHERIZATION SUBCONTRACTOR PROFILE AND CERTIFICATION, CONTINUED**

#### **IDENTIFY OWNED EQUIPMENT TO BE USED FOR WEATHERIZATION WORK:**

EQUIPMENT	MANUFACTURER	MODEL	YEAR	CONDITION
BLOWER DOOR				
INSULATION BLOWING MACHINE				
GENERATOR				
COMBUSTION ANALYZER				
OTHER:				
OTHER:				
OTHER:				

PREVIOUS WEATHERIZATION TRAINING RECEIVED: (ALL PERSONS THAT WILL PERFORM WEATHERIZATION WORK MUST BE LISTED.)

## **CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION – LOWER TIER COVERED TRANSACTIONS**

*This page must be filled out and returned with your application. Failure to do so may subject your application to rejection. Unsigned applications will NOT be considered.*

---

### **INSTRUCTIONS:**

1. By signing and submitting this document, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of the fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the State and/or federal government, the department or agency with which this transaction originates may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this application is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549, 45 CFR Part 76.
5. The prospective lower tier participant agrees by submitting this application that, should the proposed covered transaction be entered into, it shall not knowingly enter any lower tier covered transaction with a person who is debarred, suspended, determined ineligible or voluntarily excluded from participation in this covered transaction unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this document that it shall include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction shall rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency of which it determines the eligibility of its principals. Each participant may, but is not required to, check the Non-procurement List.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized in paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the State and/or federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension, and/or debarment.

The government department or agency with which this transaction originated may pursue available remedies, including suspension, and/or debarment. See <http://www.pandc.nc.gov/actions.asp> for the N.C. list and <https://www.epls.gov/> for the federal list of suspended and debarred organizations.

### **CERTIFICATION:**

1. The prospective lower tier participant certifies, by submission of this document, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, nor voluntarily excluded from participation in this transaction by any State and/or federal department or agency.
2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this application.

SIGNED: \_\_\_\_\_ DATE: \_\_\_\_\_

TITLE: \_\_\_\_\_ ORGANIZATION: \_\_\_\_\_

## CERTIFICATION REGARDING LOBBYING

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. 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 awarding of any Federal contract, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. 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 Federally funded contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form SF-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award document for subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) who receive federal funds of \$100,000.00 or more and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000.00 and not more than \$100,000.00 for each such failure.

SIGNED: \_\_\_\_\_ DATE: \_\_\_\_\_

TITLE: \_\_\_\_\_ ORGANIZATION: \_\_\_\_\_

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## OFFICE FOR HISTORICALLY UNDERUTILIZED BUSINESSES

### INSTRUCTIONS:

Non-State recipients should complete this certification for all State funds received. The completed and signed form should be provided to the State agency funding the grant to be attached to the contract for the grant funds. A copy of this form, along with the completed contract, should be kept by the funding agency and available for review by the Office of State Budget and Management. If you have questions, contact: Grants Reporting, Office of State Budget and Management, 919-807-4795.

### CERTIFICATION:

Please check the following:

Is your organization registered with the Office for Historically Underutilized Businesses (HUB)?

YES  
 NO

Are your organization minority contractors, small contractors, physically handicapped contractors, women contractors, disabled business enterprises and nonprofit work centers for the blind and severely disabled?

YES  
 NO

SIGNED: \_\_\_\_\_ DATE: \_\_\_\_\_

TITLE: \_\_\_\_\_ ORGANIZATION: \_\_\_\_\_

## **APPENDIX B – NORTH CAROLINA OFFICE OF ECONOMIC RECOVERY AND REINVESTMENT DIRECTIVES REGARDING THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009**

By submission of a response, Contractor agrees to comply with the following provisions. Failure to comply with any and all provisions herein may be cause for the contracting agency to issue a cancellation notice to a contractor.

1. **Reporting Requirements:** The Contractor is notified that this project will be financed with American Recovery and Reinvestment Act of 2009 (hereinafter, "ARRA") Funds. The Contractor shall ensure that all subcontracts and other contracts for goods and services for an ARRA-funded project have the mandated provisions of this directive in their contracts. Pursuant to Title XV, Section 1512 of the ARRA, the State shall require that the Contractor provide reports and other employment information as evidence to document the number of jobs created or jobs retained by this contract from the Contractor's own workforce and any sub-contractors. No direct payment will be made for providing said reports, as the cost for same shall be included in the various items in the contract.
2. **Posting with the Local Employment Security Commission:** In addition to any other job postings the Contractor normally utilizes, the Office of Economic Recovery & Investment (hereinafter, "OERI") requires that the Contractor shall post with the local Employment Security Commission Office all positions for which he intends to hire workers as a result of being awarded this contract. Labor and semiskilled positions must be posted for at least 48 hours before the hiring decision. All other positions must be posted a minimum posting of five days before the hiring decision. The Contractor and any Subcontractor shall report the new hires in the manner prescribed by the Employment Security Commission and the OERI.
3. **Required Contract Provision to Implement ARRA Section 902:** Section 902 of the ARRA requires that each contract awarded using ARRA funds must include a provision that provides the U.S. Comptroller General and his representatives with the authority to:
  - a. examine any records of the contractor or any of its subcontractors, or any State or local agency administering such contract, that directly pertain to, and involve transactions relating to, the contract or subcontract; and
  - b. interview any officer or employee of the contractor or any of its subcontractors, or of any State or local government agency administering the contract, regarding such transactions.

Accordingly, the Comptroller General and his representatives shall have the authority and rights prescribed under Section 902 of the ARRA with respect to contracts funded with recovery funds made available under the ARRA. Section 902 further states that nothing in 902 shall be interpreted to limit or restrict in any way any existing authority of the Comptroller General.

4. **Authority of the Inspector General Provision:** Section 1515(a) of the ARRA provides authority for any representatives of the United States Inspector General to examine any records or interview any employee or officers working on this contract. The contractor is advised that representatives of the Inspector General have the authority to examine any record and interview any employee or officer of the contractor, its subcontractors or other firms working on this contract. Section 1515(b) further provides that nothing in this section shall be interpreted to limit or restrict in any way any existing authority of an Inspector General.
5. **Buy American Provision:** Section 1605 of the ARRA requires that iron, steel and manufactured goods used in public buildings or public works projects be manufactured in the United States. Contractor agrees to abide by this provision and shall maintain records of such purchases for inspections by authorized agents of the State of North Carolina and federal agencies. The Contractor must obtain written exception from this provision from the agency issuing the contract.
6. **Wage Rate Provision:** Section 1606 of the ARRA requires that all laborers and mechanics employed by contractors and subcontractors with funds from the ARRA shall be paid wages at rates not less than the prevailing wage rate under the Davis-Bacon Act. The contractor agrees that by the submission of a response in response to a solicitation funded in whole or in part with recovery funds, continuous compliance will be maintained with the Davis-Bacon Act.

7. **Availability and Use of Funds:** Contractors understand and acknowledge that any and all payment of funds or the continuation thereof is contingent upon funds provided solely by ARRA or required state matching funds. Pursuant to Section 1604 of the ARRA, contractors agree not to undertake or make progress toward any activity using recovery funds that will lead to the development of such activity as casinos or other gambling establishments, aquariums, zoos, golf courses, swimming pools or any other activity specifically prohibited by the Recovery Act.
8. **Whistleblower Provisions:** Contractors understand and acknowledge that Article 14 of Chapter 124, NCGS 126-84 through 126-88 (applies to the State and state employees), Article 21 of Chapter 95, NCGS 95-240 through 85-245 (applies to anyone, including state employees), and Section 1553 of the Recovery Act (applies to anyone receiving federal funds), provide protection to State, Federal and contract employees.
9. **Outsourcing outside the USA without Specific Prior Approval Provision:** Contractor agrees not to use any recovery funds from a contract or any other performance agreement awarded by the State of North Carolina, its agencies, or political subdivisions for outsourcing outside of the United States, without specific prior written approval from the agency issuing the contract.
10. **Federal, State and Local Tax Obligations:** By submission of a response, contractors and subcontractors assert and self-certify that all Federal, State and local tax obligations have been or will be satisfied prior to receiving recovery funds.
11. **Anti-Discrimination and Equal Opportunity:** Pursuant to Section 1.7 of the guidance memorandum issued by the United States Office of Management and Budget on April 3, 2009, recovery funds must be distributed in accordance with all anti-discrimination and equal opportunity statutes, regulations, and Executive Orders pertaining to the expenditure of funds.
12. **Office of State Budget and Management Access to Records:** OERI requires that the contractor and subcontractor agree to allow the Office of State Budget and Management internal auditors and state agency internal auditors access to records and employees pertaining to the performance of any contract awarded by a public agency.

## **APPENDIX C – SAMPLE WEATHERIZATION ASSISTANCE PROGRAM SUBCONTRACTOR AGREEMENT (ARRA FY2012)**

**This document is representative of the agreements used by the 28 sub-grantees of the State Energy Office's Weatherization Assistance Program. Applicants should be aware of these terms and conditions but should NOT complete and execute this agreement. It is provided for reference purposes only.**

This Agreement is hereby entered into by and between (Sub-grantee, herein "Contractor") and (Subcontractor).

WITNESSETH

WHEREAS, the Contractor has entered into a Weatherization Assistance Program Agreement with the North Carolina Department of Commerce, Energy Division, State Energy Office agency, whereby it has agreed to perform certain weatherization activities pursuant to the Weatherization Assistance Program in North Carolina and;

WHEREAS, the Contractor, as a result of the utilization of its agency procurement procedures determined that the subcontractor is the lowest responsible bidder and;

WHEREAS, the Subcontractor has agreed to undertake the services set forth in Schedule A to fulfill all responsibilities of this Agreement relating to the Project.

NOW, THEREFORE, in furtherance of the Weatherization Assistance Program, and in consideration and the mutual promises and obligations herein provided, the parties do mutually agree as follows:

1. Term of Agreement  
This Agreement shall begin on (Commencement Date) and shall terminate on (Termination Date).
2. Compensation  
The Contractor agrees to pay the Subcontractor for services rendered under the terms and conditions of this Contract, subject to any additions and deductions, the reimbursement cost of materials and labor hours set forth in Schedule B (Price Agreement).
3. Entire Agreement  
This Agreement, together with any attachments appended prior to the execution of the Agreement, constitutes the entire Agreement between the parties and shall not be changed, modified or altered in any manner except by an instrument in writing executed by the parties.
4. Notices  
Any notice to be given pursuant to this Agreement shall be deemed sufficient if given in writing to the address indicated in this Agreement, or such other address as may be specified in writing, and if given by certified mail, return receipt requested, and unless date of receipt is specified herein, such notice shall be deemed given when mailed.
5. Subcontractor's Obligations  
The Subcontractor agrees:
  - A. To perform the services provided for in Schedule A (Scope of Services) attached. The services provided by the subcontractor may not be contracted out to any other organization or company.

- B. To adhere to the Davis Bacon Act. Further information is on page 20 of this agreement. All employed laborers must be paid a minimum the prevailing wage for the county that the work is performed. Weekly certified payrolls must be submitted to the listed Contractor above.
- C. To comply with all applicable laws, ordinances, codes and regulations of local, state and federal governments, including the obtaining of all required permits and licenses, at no additional cost to the Contractor.
- D. To use lead safe weatherization in all homes older than 1978 where the possibility of generating dust, both indoors and outdoors, exists. There is no *de minimus* level recognized, however; the preparation area and clean up area should be sized appropriately for the job. Work requiring lead safe weatherization includes, but is not limited to, side wall insulation installation, repair or replacement of windows or doors, and installation of an attic hatch. Pictures of the lead safe set up must be taken and included with the invoice or emailed the agency. Lead safe weatherization does not need to be followed in homes older than 1978 that have been certified as lead safe by third party verification.

Subcontractor must be a certified firm through Health Hazards Control Unit (HHCU) in the Division of Public Health. After July 31, 2010, all training providers and their renovator courses taught in North Carolina for certification purposes must be accredited by the HHCU, so any out-of-state courses and trainers will require extra review to ensure that they are accredited in North Carolina.

- E. To provide commercial insurance during the term of the contract. This insurance shall be maintained at the sole cost of the Subcontractor and with such terms and limits as may be reasonably associated with the contract. The subcontractor must list the Contractor and the State Energy Office as a certificate holder on all relevant policies. As a minimum, the Subcontractor shall provide and maintain the following coverage and limits:

- (1) **Worker's Compensation** – The Subcontractor shall provide and maintain Worker's Compensation Insurance as required by the laws of North Carolina, as well as employer's liability coverage and minimum limits of \$500,000.00, covering all of Subcontractor's employees who are engaged in any work under the contract.
- (2) **Commercial General Liability** – General Liability Coverage on a Comprehensive Broad Form on an occurrence basis in the minimum amount of \$1,000,000.00 Combined Single Limit of Limit. (Defense cost shall be in excess of the limit of liability.)
- (3) **Automobile** – Automobile Liability Insurance, to include liability coverage, covering all owned, hired and non-owned vehicles used in performance of the contract. The minimum combined single limit shall be \$500,000.00 bodily injury and property damage; \$500,000.00 uninsured/under insured motorist; and \$25,000.00 medical payment.
- (4) **Pollution Occurrence Insurance** – Liability insurance to protect against incidental disturbances of environmental pollutants like lead-based paint dust. The policy must provide three basic limits - \$500,000 per occurrence; \$500,000 aggregate for the policy term; and \$2,500 deductible per occurrence. Providing and maintaining adequate insurance coverage is a material obligation of the Subcontractor and is of the essence of this contract. The Subcontractor may meet its requirements of maintaining specified coverage and limits by demonstrating to the Contractor that there is in force insurance with equivalent coverage and limits that will offer at least the same protection to the Contractor. All such insurance shall meet all laws of the State of North Carolina. Such insurance coverage shall be obtained from companies that are authorized to provide such coverage and that are authorized by the Commissioner of Insurance to do business in North Carolina. The Contractor shall at all times comply with the terms of such insurance policies, and all requirements of the insurer under any such insurance policies,

except as they may conflict with existing North Carolina laws or this contract. The limits of coverage under each insurance policy maintained by the Subcontractor shall not be interpreted as limiting the Subcontractor's liability and obligations under the contract.

- F. The Subcontractor and Subcontractor crew members must attend all Weatherization Training provided by the State Energy Office for subcontractors and must receive necessary training in order to be proficient at performing contracted weatherization functions. The Subcontractor and Subcontractor crew members must attend at least 40 hours of weatherization training yearly.
- G. To perform the work in a workmanlike manner acceptable to the Contractor. The Subcontractor shall promptly correct all work rejected as defective or non-conforming by the Contractor, by (Date), but in no event later than the Termination Date of this Agreement.
- H. To guarantee all materials installed and labor performed to be free from defects for a period of one year from the date of final acceptance of all the work required by this Agreement on the unit, or the building containing the unit, if later.

At any time up to one (1) year from the date of installation, and upon written notice from the Contractor, the Subcontractor shall correct any faulty workmanship in regard to mechanical equipment and weatherization measures. Any manufacturer warranties are in addition to this stated warranty. This one year warranty provided by the Subcontractor shall run concurrent with the first year of the manufacturer's warranty and does not in any way extend the period of the manufacturer's warranty.

Defective work or materials shall be repaired or replaced, at the election of the Contractor, within thirty (30) days of receipt of the written notice of the defect by the Subcontractor.

- I. Acceptance of faulty work, or failure on the part of the Contractor to discover defects, will not relieve the Subcontractor of responsibility to correct the defects as set forth herein within the guarantee period.
  - 1. All work assigned to the Subcontractor will be identified by a Job Number and the Subcontractor shall similarly label all invoices, work change orders, etc. with the same number for purposes of identification.
  - 2. The Subcontractor shall provide all required information on forms supplied by the Contractor, or shall supply to the Contractor the information necessary for the completion of such forms.
- J. To provide all labor, tools and equipment necessary to perform this Agreement in an efficient, workmanlike and expeditious manner.

## 6. Payment Schedule

- A. That the subcontractor shall not be entitled to any partial payment. Payment will be upon completion of all (100%) of weatherization work done to each home. The subcontractor submits the following billing requirements for payment:
  - 1) Contractor's Invoice that specifies measure labor & material costs (number of insulation bags used must be included)
  - 2) Blower Door Reduction Sheet
- B. The contractor agrees to make payment within thirty (30) working days after receipt of all billing requirements above.
- C. Assignment

This Agreement is intended to secure the services of the Subcontractor because of its ability and reputation and none of the Subcontractor's services or obligations under this Agreement shall be assigned, subcontracted or transferred without the prior written consent of the Contractor.

D. Records

The Subcontractor shall retain all papers and records in connection with work performed for a minimum of three (3) years and access will be provided to the State Energy Office, the US Department of Energy, the North Carolina Department of Commerce, Energy Division and any of its authorized agents or representatives, or other Federal or State representatives for the purpose of audit, examination, excerpts or transactions.

7. Contractor's Obligations

The Contractor agrees:

- A. To provide work orders in conformance with the State Energy Office policies.
- B. To conduct a timely post-inspection to determine the acceptability of the services performed by the Subcontractor no later than five (5) days after notification by the Subcontractor of completion.
- C. To pay the Subcontractor promptly as required by 10CFR 600.421 and according to this Agreement.
- D. Not to condition payment under this Agreement on the State Energy Office certification or approval.

8. Conduct of Agreement

A. Delays

When good cause is shown for delay in the work by the Subcontractor, the Contractor shall make a determination specifying alternative payment procedures and/or an extension of time allocated for performance of this Agreement based on confirmation of the delay. Such delays may include, but are not limited to, any of the following: changes in the work, labor disputes, fire, flood, unavoidable casualty or damage to materials, an act or neglect of the property owner or such cause beyond the control of the Subcontractor.

B. Liquidated Damages

It is understood that actual damages due to delay in the performance of the work are uncertain and difficult to ascertain. The reasonably foreseeable damages due to such delay are agreed to be the sum of one hundred dollars (\$100) per day per dwelling unit. The Contractor may withhold and retain such liquidated damages out of any monies due to the Subcontractor under this Agreement.

C. Termination

1. For Fault

If the Contractor determines that the Subcontractor has failed to perform or will fail to perform all or any part of the Subcontractor's services or obligations required under this Agreement, the Contractor may terminate or suspend this Agreement in whole or in part upon written notice by certified mail to the Subcontractor specifying the portions of this Agreement terminated, suspended or reduced. Such notice shall specify the violation(s) of this Agreement, and, in the case of termination, shall specify a reasonable period of not more than ten (10) days nor less than five (5) days from receipt of the notice, at which time the Agreement shall be deemed terminated.

In the event of such termination, any materials, supplies, tools or equipment provided by the Contractor shall be returned forthwith by the Subcontractor.

2. Not for Fault

Whenever the Contractor determines that termination of this Agreement in whole or in part is in the best interest of the Contractor or the State, or in the event that termination is required by a Federal Subgrantee, the Contractor may terminate this Agreement by written notice to the Subcontractor specifying the services terminated and the effective date of the termination. Upon termination, the Subcontractor shall be entitled to and the Contractor shall pay, the eligible costs incurred in compliance with this Agreement until the date of the termination, plus any costs the Subcontractor incurs directly resulting from such termination, provided however, that the total amount paid to the Subcontractor shall not be more than the amount of Total Compensation specified in this Agreement.

3. Termination for Circumstances Beyond the Control of the Subcontractor

The Subcontractor shall be liable for default unless nonperformance is caused by an occurrence beyond the reasonable control of the Subcontractor and without its fault or negligence, such as acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Subcontractor shall notify the Contractor in writing as soon as it is reasonably possible after the commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch, and shall promptly give written notice to the Contractor of the cessation of such occurrence."

4. In the event of termination of this Agreement, the Contractor shall simultaneously forward to the State Energy Office a copy of the required notice.

**New Subcontractor Onsite Training Addendum**

Contractors are required to provide onsite training for no less than five site built houses and no less than two mobile homes for Subcontractors who have not previously worked with the Weatherization Assistance Program. The Contractor must provide a representative to be onsite during the entire weatherization process in order to technical assistance to the Subcontractor. The contract may extend this monitoring if needed. This addendum does not apply to Subcontractors whose Scope of Work only includes placing insulation.

This Subcontractor Agreement shall:

Not be subject to the Training Addendum.

Be subject to the Training Addendum.

## **SCHEDULE A**

### **Scope of Services**

The Subcontractor agrees to provide the services and/or materials described in detail below:

1. After gross air leakage (and ducts) are sealed, use the blower door and digital manometer to guide air sealing measures. The Blower Door Reduction Sheet must be used and submitted with the invoice when performing the following measures:
  - a. Air sealing plumbing, electrical, and HVAC penetrations through ceilings, flooring and exterior walls with polyurethane foam
  - b. Patch sheet rock on exterior wall to include tape and mud to a ready to paint finish
  - c. Patch holes in flooring and ceilings using existing type materials if possible
2. Install/replace exhaust vents and ventilation fans
3. Wrap water heater tanks with external insulation blanket in accordance with the NC Weatherization Standards
4. Use blower machine to insulate attics with cellulose insulation to R38 (R30 for select coastal areas) value using the manufacturer's bag estimation method. The number of bags used must be included on the invoice submitted to the agency
5. Use blower machine that is capable to dense pack sidewall insulation to R-13 value to a minimum density of 3.5 pounds per cubic foot of volume
6. Insulate floors with fiberglass batt insulation to R-19 value
7. Install vapor barriers in crawl spaces. The seams of each piece must be overlapped 6 inches and sealed. The vapor barrier must extend 6 inches up the foundation wall and sealed with adhesive and tape
8. Seal accessible ducts, returns, plenums, connections, and boots with mastic resulting in a reading of no more than one Pascal
9. Insulate ducts located outside the condition space with R-6, foil-faced duct insulation
10. Insulate water pipes in unconditioned space
11. Install low-flow showerheads
12. Replace broken window panes
13. Perform minor plumbing tasks to facilitate weatherization work
14. Perform minor electrical tasks to facilitate weatherization work

**SCHEDULE B****Subcontractor Compensation**

Subcontractor will be compensated a labor rate of Dollars and Cents (\$ . ) per man-hour. Typical crew size is persons. The labor rate quoted must include all overhead cost including travel, worker compensation (at Prevailing Wage) equipment, maintenance, administrative costs, and work pay.

<b>Material</b>	<b>Specification</b>	<b>Labor Price (\$ / sq.ft.)</b>	<b>Material Price (\$ / sq.ft.)</b>	<b>Total Price (\$ / sq.ft.)</b>
<b>Attic Insulation</b>				
Blown Cellulose, Site Built Attic	R-38 (from R-0)			
Blown Cellulose, Site Built Attic	R-30			
Blown Cellulose, Site Built Attic	R-19			
Blown Cellulose, Site Built Attic	R-11			
Blown Fiberglass, Site Built Attic	R-38 (from R-0)			
Blown Fiberglass, Site Built Attic	R-30			
Blown Fiberglass, Site Built Attic	R-19			
Blown Fiberglass, Site Built Attic	R-11			
Blown Fiberglass, Roof	Mobile Home			
<b>Sidewall Insulation</b>				
Dense-Packed Cellulose, Sidewall	3 ½" Studs			
Dense-Packed Cellulose, Sidewall	5 ½" Studs			
Kneewall Insulation	3 ½" Studs			
Fiberglass Placement Sidewall	Mobile Home			
<b>Crawlspace Vapor Barrier</b>				
Vapor Barrier, Crawlspace	6-mil poly			

Record the prices for installing insulation and vapor barrier in the chart above. The total per square foot price must be equal to the sum of the labor price and the material price. These price categories should be adequate for installing insulation in most weatherization situations. If a particular category will not apply, indicate by stating (N/A) "not applicable" in the price sections. Please avoid adding unnecessary price categories.

\*Hourly labor rate cannot be charged for time spent installing insulation.

## **SCHEDULE C**

### **Flow-Down Provisions for the Weatherization Assistance Program**

#### **RESOLUTION OF CONFLICTING CONDITIONS**

Any apparent inconsistency between Federal statutes and regulations and the terms and conditions contained in this award must be referred to the DOE Award Administrator for guidance.

#### **STATEMENT OF FEDERAL STEWARDSHIP**

DOE will exercise normal Federal stewardship in overseeing the project activities performed under this award. Stewardship activities include, but are not limited to, conducting site visits; reviewing performance and financial reports; providing technical assistance and/or temporary intervention in unusual circumstances to correct deficiencies which develop during the project; assuring compliance with terms and conditions; and reviewing technical performance after project completion to ensure that the award objectives have been accomplished.

#### **SITE VISITS**

DOE's authorized representatives have the right to make site visits at reasonable times to review project accomplishments and management control systems and to provide technical assistance, if required. You must provide, and must require your subawardees to provide, reasonable access to facilities, office space, resources, and assistance for the safety and convenience of the government representatives in the performance of their duties. All site visits and evaluations must be performed in a manner that does not unduly interfere with or delay the work.

#### **REPORTING REQUIREMENTS**

- a. Requirements. The reporting requirements for this award are identified on the Federal Assistance Reporting Checklist, DOE F 4600.2, attached to this award. Failure to comply with these reporting requirements is considered a material noncompliance with the terms of the award. Noncompliance may result in withholding of future payments, suspension, or termination of the current award, and withholding of future awards. A willful failure to perform, a history of failure to perform, or unsatisfactory performance of this and/or other financial assistance awards, may also result in a debarment action to preclude future awards by Federal agencies.
- b. Dissemination of scientific/technical reports. Scientific/technical reports submitted under this award will be disseminated on the Internet via the DOE Information Bridge ([www.osti.gov/bridge](http://www.osti.gov/bridge)), unless the report contains patentable material, protected data, or SBIR/STTR data. Citations for journal articles produced under the award will appear on the DOE Energy Citations Database ([www.osti.gov/energycitations](http://www.osti.gov/energycitations)).
- c. Restrictions. Reports submitted to the DOE Information Bridge must not contain any Protected Personal Identifiable Information (PII), limited rights data (proprietary data), classified information, information subject to export control classification, or other information not subject to release.

#### **PUBLICATIONS**

- a. You are encouraged to publish or otherwise make publicly available the results of the work conducted under the award.
- b. An acknowledgment of Federal support and a disclaimer must appear in the publication of any material, whether copyrighted or not, based on or developed under this project, as follows:

**Acknowledgment:** "This material is based upon work supported by the Department of Energy under Award Number DE-EE0000095

**Disclaimer:** "This report was prepared as an account of work sponsored by an agency of the United States Government. Neither the United States Government nor any agency thereof, nor any of their employees, makes any warranty, express or implied, or assumes

any legal liability or responsibility for the accuracy, completeness, or usefulness of any information, apparatus, product, or process disclosed, or represents that its use would not infringe privately owned rights. Reference herein to any specific commercial product, process, or service by trade name, trademark, manufacturer, or otherwise does not necessarily constitute or imply its endorsement, recommendation, or favoring by the United States Government or any agency thereof. The views and opinions of authors expressed herein do not necessarily state or reflect those of the United States Government or any agency thereof."

#### FEDERAL, STATE, AND MUNICIPAL REQUIREMENTS

You must obtain any required permits and comply with applicable federal, state, and municipal laws, codes, and regulations for work performed under this award.

#### INTELLECTUAL PROPERTY PROVISIONS AND CONTACT INFORMATION

- a. The intellectual property provisions applicable to this award are provided as an attachment to this award or are referenced on the Agreement Face Page. A list of all intellectual property provisions may be found at [http://www.gc.doe.gov/financial\\_assistance\\_awards.htm](http://www.gc.doe.gov/financial_assistance_awards.htm).
- b. Questions regarding intellectual property matters should be referred to the DOE Award Administrator and the Patent Counsel designated as the service provider for the DOE office that issued the award. The IP Service Providers List is found at [http://www.gc.doe.gov/documents/Intellectual\\_Property\\_\(IP\)\\_Service\\_Providers\\_for\\_Acquisition.pdf](http://www.gc.doe.gov/documents/Intellectual_Property_(IP)_Service_Providers_for_Acquisition.pdf)

#### LOBBYING RESTRICTIONS

By accepting funds under this award, you agree that none of the funds obligated on the award shall be expended, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before Congress, other than to communicate to Members of Congress as described in 18 U.S.C. 1913. This restriction is in addition to those prescribed elsewhere in statute and regulation.

#### NOTICE REGARDING THE PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS -- SENSE OF CONGRESS

It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available under this award should be American-made.

#### DECONTAMINATION AND/OR DECOMMISSIONING (D&D) COSTS

Notwithstanding any other provisions of this Agreement, the Government shall not be responsible for or have any obligation to the recipient for (i) Decontamination and/or Decommissioning (D&D) of any of the recipient's facilities, or (ii) any costs which may be incurred by the recipient in connection with the D&D of any of its facilities due to the performance of the work under this Agreement, whether said work was performed prior to or subsequent to the effective date of this Agreement.

#### HISTORIC PRESERVATION

Prior to the expenditure of Federal funds to alter any structure or site, the Recipient is required to comply with the requirements of Section 106 of the National Historic Preservation Act (NHPA), consistent with DOE's 2009 letter of delegation of authority regarding the NHPA. Section 106 applies to historic properties that are listed in or eligible for listing in the National Register of Historic Places. In order to fulfill the requirements of Section 106, the recipient must contact the State Historic Preservation Officer (SHPO), and, if applicable, the Tribal Historic Preservation Officer (THPO), to coordinate the Section 106 review outlined in 36 CFR Part 800. SHPO contact information is available at the following link: <http://www.ncshpo.org/find/index.htm>. THPO contact information is available at the following link: <http://www.nathpo.org/map.html>.

Section 110(k) of the NHPA applies to DOE funded activities. Recipients shall avoid taking any action that results in an adverse effect to historic properties pending compliance with Section 106.

Recipients should be aware that the DOE Contracting Officer will consider the recipient in compliance with Section 106 of the NHPA only after the Recipient has submitted adequate background

documentation to the SHPO/THPO for its review, and the SHPO/THPO has provided written concurrence to the Recipient that it does not object to its Section 106 finding or determination. Recipient shall provide a copy of this concurrence to the Contracting Officer.

## **SPECIAL PROVISIONS RELATING TO WORK FUNDED UNDER AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009**

### **Preamble**

The American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, (Recovery Act) was enacted to preserve and create jobs and promote economic recovery, assist those most impacted by the recession, provide investments needed to increase economic efficiency by spurring technological advances in science and health, invest in transportation, environmental protection, and other infrastructure that will provide long-term economic benefits, stabilize State and local government budgets, in order to minimize and avoid reductions in essential services and counterproductive State and local tax increases.

Recipients shall use grant funds in a manner that maximizes job creation and economic benefit.

The Recipient shall comply with all terms and conditions in the Recovery Act relating generally to governance, accountability, transparency, data collection and resources as specified in Act itself and as discussed below.

Recipients should begin planning activities for their first tier subrecipients, including obtaining a DUNS number (or updating the existing DUNS record), and registering with the Central Contractor Registration (CCR).

Be advised that Recovery Act funds can be used in conjunction with other funding as necessary to complete projects, but tracking and reporting must be separate to meet the reporting requirements of the Recovery Act and related guidance. For projects funded by sources other than the Recovery Act, Contractors must keep separate records for Recovery Act funds and to ensure those records comply with the requirements of the Act.

The Government has not fully developed the implementing instructions of the Recovery Act, particularly concerning specific procedural requirements for the new reporting requirements. The Recipient will be provided these details as they become available. The Recipient must comply with all requirements of the Act. If the recipient believes there is any inconsistency between ARRA requirements and current award terms and conditions, the issues will be referred to the Contracting Officer for reconciliation.

### **Definitions**

For purposes of this clause, Covered Funds means funds expended or obligated from appropriations under the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5. Covered Funds will have special accounting codes and will be identified as Recovery Act funds in the grant, cooperative agreement or TIA and/or modification using Recovery Act funds. Covered Funds must be reimbursed by September 30, 2015.

Non-Federal employer means any employer with respect to covered funds – the contractor, subcontractor, grantee, or recipient, as the case may be, if the contractor, subcontractor, grantee, or recipient is an employer; and any professional membership organization, certification of other professional body, any agent or licensee of the Federal government, or any person acting directly or indirectly in the interest of an employer receiving covered funds; or with respect to covered funds received by a State or local government, the State or local government receiving the funds and any contractor or subcontractor receiving the funds and any contractor or subcontractor of the State or local government; and does not mean any department, agency, or other entity of the federal government.

Recipient means any entity that receives Recovery Act funds directly from the Federal government (including Recovery Act funds received through grant, loan, or contract) other than an individual and includes a State that receives Recovery Act Funds.

## **Special Provisions**

- A. Flow Down Requirement  
Recipients must include these special terms and conditions in any subaward.
- B. Segregation of Costs  
Recipients must segregate the obligations and expenditures related to funding under the Recovery Act. Financial and accounting systems should be revised as necessary to segregate, track and maintain these funds apart and separate from other revenue streams. No part of the funds from the Recovery Act shall be commingled with any other funds or used for a purpose other than that of making payments for costs allowable for Recovery Act projects.
- C. Prohibition on Use of Funds  
None of the funds provided under this agreement derived from the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, may be used by any State or local government, or any private entity, for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool.
- D. Access to Records  
With respect to each financial assistance agreement awarded utilizing at least some of the funds appropriated or otherwise made available by the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, any representative of an appropriate inspector general appointed under section 3 or 8G of the Inspector General Act of 1988 (5 U.S.C. App.) or of the Comptroller General is authorized –
  - (1) to examine any records of the contractor or grantee, any of its subcontractors or subgrantees, or any State or local agency administering such contract that pertain to, and involve transactions relation to, the subcontract, subcontract, grant, or subgrant; and
  - (2) to interview any officer or employee of the contractor, grantee, subgrantee, or agency regarding such transactions.
- E. Publication  
An application may contain technical data and other data, including trade secrets and/or privileged or confidential information, which the applicant does not want disclosed to the public or used by the Government for any purpose other than the application. To protect such data, the applicant should specifically identify each page including each line or paragraph thereof containing the data to be protected and mark the cover sheet of the application with the following Notice as well as referring to the Notice on each page to which the Notice applies:

### **Notice of Restriction on Disclosure and Use of Data**

The data contained in pages \_\_\_ of this application have been submitted in confidence and contain trade secrets or proprietary information, and such data shall be used or disclosed only for evaluation purposes, provided that if this applicant receives an award as a result of or in connection with the submission of this application, DOE shall have the right to use or disclose the data here to the extent provided in the award. This restriction does not limit the Government's right to use or disclose data obtained without restriction from any source, including the applicant.

Information about this agreement will be published on the Internet and linked to the website [www.recovery.gov](http://www.recovery.gov), maintained by the Accountability and Transparency Board. The Board may exclude posting contractual or other information on the website on a case-by-case basis when necessary to protect national security or to protect information that is not subject to disclosure under sections 552 and 552a of title 5, United States Code.

- F. Protecting State and Local Government and Contractor Whistleblowers.  
The requirements of Section 1553 of the Act are summarized below. They include, but are not limited to:  
**Prohibition on Reprisals:** An employee of any non-Federal employer receiving covered funds under the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing, including a

disclosure made in the ordinary course of an employee's duties, to the Accountability and Transparency Board, an inspector general, the Comptroller General, a member of Congress, a State or Federal regulatory or law enforcement agency, a person with supervisory authority over the employee (or other person working for the employer who has the authority to investigate, discover or terminate misconduct, a court or grant jury, the head of a Federal agency, or their representatives information that the employee believes is evidence of:

- gross management of an agency contract or grant relating to covered funds;
- a gross waste of covered funds
- a substantial and specific danger to public health or safety related to the implementation or use of covered funds;
- an abuse of authority related to the implementation or use of covered funds; or
- as violation of law, rule, or regulation related to an agency contract (including the competition for or negotiation of a contract) or grant, awarded or issued relating to covered funds.

**Agency Action:** Not later than 30 days after receiving an inspector general report of an alleged reprisal, the head of the agency shall determine whether there is sufficient basis to conclude that the non-Federal employer has subjected the employee to a prohibited reprisal. The agency shall either issue an order denying relief in whole or in part or shall take one or more of the following actions:

- Order the employer to take affirmative action to abate the reprisal.
- Order the employer to reinstate the person to the position that the person held before the reprisal, together with compensation including back pay, compensatory damages, employment benefits, and other terms and conditions of employment that would apply to the person in that position if the reprisal had not been taken.
- Order the employer to pay the employee an amount equal to the aggregate amount of all costs and expenses (including attorneys' fees and expert witnesses' fees) that were reasonably incurred by the employee for or in connection with, bringing the complaint regarding the reprisal, as determined by the head of a court of competent jurisdiction.

**Nonenforceability of Certain Provisions Waiving Rights and remedies or Requiring**

**Arbitration:** Except as provided in a collective bargaining agreement, the rights and remedies provided to aggrieved employees by this section may not be waived by any agreement, policy, form, or condition of employment, including any predispute arbitration agreement. No predispute arbitration agreement shall be valid or enforceable if it requires arbitration of a dispute arising out of this section.

**Requirement to Post Notice of Rights and Remedies:** Any employer receiving covered funds under the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, shall post notice of the rights and remedies as required therein. (Refer to section 1553 of the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, [www.Recovery.gov](http://www.Recovery.gov), for specific requirements of this section and prescribed language for the notices.).

G. Request for Reimbursement (this version is included in WAP/SEP awards with states)  
RESERVED

H. False Claims Act

Recipient and sub-recipients shall promptly refer to the DOE or other appropriate Inspector General any credible evidence that a principal, employee, agent, contractor, sub-grantee, subcontractor or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity or similar misconduct involving those funds.

I. Information in supporting of Recovery Act Reporting

Recipient may be required to submit backup documentation for expenditures of funds under the Recovery Act including such items as timecards and invoices. Recipient shall provide copies of backup documentation at the request of the Contracting Officer or designee.

J. Availability of Funds

Funds appropriated under the Recovery Act and obligated to this award are available for reimbursement of costs until September 30, 2015.

**REPORTING AND REGISTRATION REQUIREMENTS UNDER  
SECTION 1512 OF THE RECOVERY ACT**

- a. This award requires the recipient to complete projects or activities which are funded under the American Recovery and Reinvestment Act of 2009 (Recovery Act) and to report on use of Recovery Act funds provided through this award. Information from these reports will be made available to the public.
- b. The reports are due no later than ten calendar days after each calendar quarter in which the recipient receives the assistance award funded in whole or in part by the Recovery Act.
- c. Recipients and their first-tier recipients must maintain current registrations in the Central Contractor Registration (<http://www.ccr.gov>) at all times during which they have active federal awards funded with Recovery Act funds. A Dun and Bradstreet Data Universal Numbering System (DUNS) Number (<http://www.dnb.com>) is one of the requirements for registration in the Central Contractor Registration.
- d. The recipient shall report the information described in section 1512(c) of the Recovery Act using the reporting instructions and data elements that will be provided online at <http://www.FederalReporting.gov> and ensure that any information that is pre-filled is corrected or updated as needed.

**REQUIRED USE OF AMERICAN IRON, STEEL, AND MANUFACTURED GOODS –  
SECTION 1605 OF THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009**

- a. Definitions. As used in this award term and condition--
  - (1) Manufactured good means a good brought to the construction site for incorporation into the building or work that has been--
    - (i) Processed into a specific form and shape; or
    - (ii) Combined with other raw material to create a material that has different properties than the properties of the individual raw materials.
  - (2) Public building and public work means a public building of, and a public work of, a governmental entity (the United States; the District of Columbia; commonwealths, territories, and minor outlying islands of the United States; State and local governments; and multi-State, regional, or interstate entities which have governmental functions). These buildings and works may include, without limitation, bridges, dams, plants, highways, parkways, streets, subways, tunnels, sewers, mains, power lines, pumping stations, heavy generators, railways, airports, terminals, docks, piers, wharves, ways, lighthouses, buoys, jetties, breakwaters, levees, and canals, and the construction, alteration, maintenance, or repair of such buildings and works.
  - (3) Steel means an alloy that includes at least 50 percent iron, between .02 and 2 percent carbon, and may include other elements.
- b. Domestic preference.
  - (1) This award term and condition implements Section 1605 of the American Recovery and Reinvestment Act of 2009 (Recovery Act) (Pub. L. 111-5), by requiring that all iron, steel, and manufactured goods used in the project are produced in the United States except as provided in paragraph (b)(3) and (b)(4) of this section and condition.
  - (2) This requirement does not apply to the material listed by the Federal Government as follows:  
(None)
  - (3) The award official may add other iron, steel, and/or manufactured goods to the list in paragraph (b)(2) of this section and condition if the Federal Government determines that--
    - (i) The cost of the domestic iron, steel, and/or manufactured goods would be unreasonable. The cost of domestic iron, steel, or manufactured goods used in the project is unreasonable when the cumulative cost of such material will increase the cost of the overall project by more than 25 percent;

- (ii) The iron, steel, and/or manufactured good is not produced, or manufactured in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or
  - (iii) The application of the restriction of section 1605 of the Recovery Act would be inconsistent with the public interest.
- c. Request for determination of inapplicability of Section 1605 of the Recovery Act .
- (1)
    - (i) Any recipient request to use foreign iron, steel, and/or manufactured goods in accordance with paragraph (b)(3) of this section shall include adequate information for Federal Government evaluation of the request, including--
      - (A) A description of the foreign and domestic iron, steel, and/or manufactured goods;
      - (B) Unit of measure;
      - (C) Quantity;
      - (D) Cost;
      - (E) Time of delivery or availability;
      - (F) Location of the project;
      - (G) Name and address of the proposed supplier; and
      - (H) A detailed justification of the reason for use of foreign iron, steel, and/or manufactured goods cited in accordance with paragraph (b)(3) of this section.
    - (ii) A request based on unreasonable cost shall include a reasonable survey of the market and a completed cost comparison table in the format in paragraph (d) of this section.
    - (iii) The cost of iron, steel, and/or manufactured goods material shall include all delivery costs to the construction site and any applicable duty.
    - (iv) Any recipient request for a determination submitted after Recovery Act funds have been obligated for a project for construction, alteration, maintenance, or repair shall explain why the recipient could not reasonably foresee the need for such determination and could not have requested the determination before the funds were obligated. If the recipient does not submit a satisfactory explanation, the award official need not make a determination.
  - (2) If the Federal Government determines after funds have been obligated for a project for construction, alteration, maintenance, or repair that an exception to section 1605 of the Recovery Act applies, the award official will amend the award to allow use of the foreign iron, steel, and/or relevant manufactured goods. When the basis for the exception is nonavailability or public interest, the amended award shall reflect adjustment of the award amount, redistribution of budgeted funds, and/or other actions taken to cover costs associated with acquiring or using the foreign iron, steel, and/or relevant manufactured goods. When the basis for the exception is the unreasonable cost of the domestic iron, steel, or manufactured goods, the award official shall adjust the award amount or redistribute budgeted funds by at least the differential established in 2 CFR 176.110(a).
  - (3) Unless the Federal Government determines that an exception to section 1605 of the Recovery Act applies, use of foreign iron, steel, and/or manufactured goods is noncompliant with section 1605 of the American Recovery and Reinvestment Act.
- d. Data. To permit evaluation of requests under paragraph (b) of this section based on unreasonable cost, the Recipient shall include the following information and any applicable supporting data based on the survey of suppliers:

Foreign and Domestic Items Cost Comparison			
Description	Unit of Measure	Quantity	Cost* (\$US)
ITEM 1	--	--	--
Foreign steel, iron or manufactured good			
Domestic steel, iron or manufactured good			
ITEM 2	--	--	--
Foreign steel, iron or manufactured good			
Domestic steel, iron or manufactured good			

\*Include all delivery costs to the construction site.

- List name, address, telephone number, email address, and contact for suppliers surveyed. Attach copy of response; if oral, attach summary.
- Include other applicable supporting information.

**REQUIRED USE OF AMERICAN IRON, STEEL, AND MANUFACTURED GOODS  
(COVERED UNDER INTERNATIONAL AGREEMENTS)**  
**SECTION 1605 OF THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009**

- a. Definitions. As used in this award term and condition—

**Designated country —**

- (1) A World Trade Organization Government Procurement Agreement country (Aruba, Austria, Belgium, Bulgaria, Canada, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea (Republic of), Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, and United Kingdom);
- (2) A Free Trade Agreement (FTA) country (Australia, Bahrain, Canada, Chile, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Israel, Mexico, Morocco, Nicaragua, Oman, Peru, or Singapore); or
- (3) A United States-European Communities Exchange of Letters (May 15, 1995) country: Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovak Republic, Slovenia, Spain, Sweden, and United Kingdom.

**Designated country iron, steel, and/or manufactured goods —**

- (1) Is wholly the growth, product, or manufacture of a designated country; or
- (2) In the case of a manufactured good that consists in whole or in part of materials from another country, has been substantially transformed in a designated country into a new and different manufactured good distinct from the materials from which it was transformed.

**Domestic iron, steel, and/or manufactured good —**

- (1) Is wholly the growth, product, or manufacture of the United States; or
- (2) In the case of a manufactured good that consists in whole or in part of materials from another country, has been substantially transformed in the United States into a new and different manufactured good distinct from the materials from which it was transformed. There is no requirement with regard to the origin of components or subcomponents in manufactured goods or products, as long as the manufacture of the goods occurs in the United States.

**Foreign iron, steel, and/or manufactured good** means iron, steel and/or manufactured good that is not domestic or designated country iron, steel, and/or manufactured good.

**Manufactured good** means a good brought to the construction site for incorporation into the building or work that has been —

- (1) Processed into a specific form and shape; or
- (2) Combined with other raw material to create a material that has different properties than the properties of the individual raw materials.

**Public building** and **public work** means a public building of, and a public work of, a governmental entity (the United States; the District of Columbia; commonwealths, territories, and minor outlying islands of the United States; State and local governments; and multi-State, regional, or interstate entities which have governmental functions). These buildings and works may include, without limitation, bridges, dams, plants, highways, parkways, streets, subways, tunnels, sewers, mains, power lines, pumping stations, heavy generators, railways, airports, terminals, docks, piers, wharves, ways, lighthouses, buoys, jetties, breakwaters, levees, and canals, and the construction, alteration, maintenance, or repair of such buildings and works.

**Steel** means an alloy that includes at least 50 percent iron, between .02 and 2 percent carbon, and may include other elements.

b. Iron, steel, and manufactured goods.

(1) The award term and condition described in this section implements—

- (i) Section 1605(a) of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111-5) (Recovery Act), by requiring that all iron, steel, and manufactured goods used in the project are produced in the United States; and
  - (ii) Section 1605(d), which requires application of the Buy American requirement in a manner consistent with U.S. obligations under international agreements. The restrictions of section 1605 of the Recovery Act do not apply to designated country iron, steel, and/or manufactured goods. The Buy American requirement in section 1605 shall not be applied where the iron, steel or manufactured goods used in the project are from a Party to an international agreement that obligates the recipient to treat the goods and services of that Party the same as domestic goods and services. This obligation shall only apply to projects with an estimated value of \$7,443,000 or more.
- (2) The recipient shall use only domestic or designated country iron, steel, and manufactured goods in performing the work funded in whole or part with this award, except as provided in paragraphs (b)(3) and (b)(4) of this section.
  - (3) The requirement in paragraph (b)(2) of this section does not apply to the iron, steel, and manufactured goods listed by the Federal Government as follows: (NONE)
  - (4) The award official may add other iron, steel, and manufactured goods to the list in paragraph (b)(3) of this section if the Federal Government determines that—
    - (i) The cost of domestic iron, steel, and/or manufactured goods would be unreasonable. The cost of domestic iron, steel, and/or manufactured goods used in the project is unreasonable when the cumulative cost of such material will increase the overall cost of the project by more than 25 percent;
    - (ii) The iron, steel, and/or manufactured good is not produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality; or
    - (iii) The application of the restriction of section 1605 of the Recovery Act would be inconsistent with the public interest.

c. Request for determination of inapplicability of section 1605 of the Recovery Act or the Buy American Act.

(1)

- (i) Any recipient request to use foreign iron, steel, and/or manufactured goods in accordance with paragraph (b)(4) of this section shall include adequate information for Federal Government evaluation of the request, including—
  - (A) A description of the foreign and domestic iron, steel, and/or manufactured goods;
  - (B) Unit of measure;
  - (C) Quantity;
  - (D) Cost;
  - (E) Time of delivery or availability;
  - (F) Location of the project;
  - (G) Name and address of the proposed supplier; and
  - (H) A detailed justification of the reason for use of foreign iron, steel, and/or manufactured goods cited in accordance with paragraph (b)(4) of this section.
- (ii) A request based on unreasonable cost shall include a reasonable survey of the market and a completed cost comparison table in the format in paragraph (d) of this section.
- (iii) The cost of iron, steel, or manufactured goods shall include all delivery costs to the construction site and any applicable duty.
- (iv) Any recipient request for a determination submitted after Recovery Act funds have been obligated for a project for construction, alteration, maintenance, or repair shall explain why the recipient could not reasonably foresee the need for such determination and could not have requested the determination before the funds were obligated. If the recipient

does not submit a satisfactory explanation, the award official need not make a determination.

- (2) If the Federal Government determines after funds have been obligated for a project for construction, alteration, maintenance, or repair that an exception to section 1605 of the Recovery Act applies, the award official will amend the award to allow use of the foreign iron, steel, and/or relevant manufactured goods. When the basis for the exception is nonavailability or public interest, the amended award shall reflect adjustment of the award amount, redistribution of budgeted funds, and/or other appropriate actions taken to cover costs associated with acquiring or using the foreign iron, steel, and/or relevant manufactured goods.. When the basis for the exception is the unreasonable cost of the domestic iron, steel, or manufactured goods, the award official shall adjust the award amount or redistribute budgeted funds, as appropriate, by at least the differential established in 2 CFR 176.110(a).
- (3) Unless the Federal Government determines that an exception to section 1605 of the Recovery Act applies, use of foreign iron, steel, and/or manufactured goods other than designated country iron, steel, and/or manufactured goods is noncompliant with the applicable Act.
- d. Data. To permit evaluation of requests under paragraph (b) of this section based on unreasonable cost, the applicant shall include the following information and any applicable supporting data based on the survey of suppliers:

Foreign and Domestic Items Cost Comparison			
Description	Unit of Measure	Quantity	Cost* (\$US)
ITEM 1	--	--	--
Foreign steel, iron or manufactured good			
Domestic steel, iron or manufactured good			
ITEM 2	--	--	--
Foreign steel, iron or manufactured good			
Domestic steel, iron or manufactured good			

\*Include all delivery costs to the construction site.

- List name, address, telephone number, email address, and contact for suppliers surveyed. Attach copy of response; if oral, attach summary.
- Include other applicable supporting information.

#### **WAGE RATE REQUIREMENTS UNDER SECTION 1606 OF THE RECOVERY ACT**

- a. Section 1606 of the Recovery Act requires that all laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to the Recovery Act shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code.

Pursuant to Reorganization Plan No. 14 and the Copeland Act, 40 U.S.C. 3145, the Department of Labor has issued regulations at 29 CFR parts 1, 3, and 5 to implement the Davis-Bacon and related Acts. Regulations in 29 CFR 5.5 instruct agencies concerning application of the standard Davis-Bacon contract clauses set forth in that section. Federal agencies providing grants, cooperative agreements, and loans under the Recovery Act shall ensure that the standard Davis-Bacon contract clauses found in 29 CFR 5.5(a) are incorporated in any resultant covered contracts that are in excess of \$2,000 for construction, alteration or repair (including painting and decorating).

- b. For additional guidance on the wage rate requirements of section 1606, contact your awarding agency. Recipients of grants, cooperative agreements and loans should direct their initial inquiries concerning the application of Davis-Bacon requirements to a particular federally assisted project to the Federal agency funding the project. The Secretary of Labor retains final coverage authority under Reorganization Plan Number 14.

## **RECOVERY ACT TRANSACTIONS LISTED IN SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS AND RECIPIENT RESPONSIBILITIES FOR INFORMING**

- a. To maximize the transparency and accountability of funds authorized under the American Recovery and Reinvestment Act of 2009 (Pub. L. 111-5) (Recovery Act) as required by Congress and in accordance with 2 CFR 215.21 "Uniform Administrative Requirements for Grants and Agreements" and OMB Circular A-102 Common Rules provisions, recipients agree to maintain records that identify adequately the source and application of Recovery Act funds. OMB Circular A-102 is available at <http://www.whitehouse.gov/omb/circulars/a102/a102.html>.
- b. For recipients covered by the Single Audit Act Amendments of 1996 and OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations," recipients agree to separately identify the expenditures for Federal awards under the Recovery Act on the Schedule of Expenditures of Federal Awards (SEFA) and the Data Collection Form (SF--SAC) required by OMB Circular A-133. OMB Circular A-133 is available at <http://www.whitehouse.gov/omb/circulars/a133/a133.html>. This shall be accomplished by identifying expenditures for Federal awards made under the Recovery Act separately on the SEFA, and as separate rows under Item 9 of Part III on the SF--SAC by CFDA number, and inclusion of the prefix "ARRA-" in identifying the name of the Federal program on the SEFA and as the first characters in Item 9d of Part III on the SF--SAC.
- c. Recipients agree to separately identify to each subrecipient, and document at the time of subaward and at the time of disbursement of funds, the Federal award number, CFDA number, and amount of Recovery Act funds. When a recipient awards Recovery Act funds for an existing program, the information furnished to subrecipients shall distinguish the subawards of incremental Recovery Act funds from regular subawards under the existing program.
- d. Recipients agree to require their subrecipients to include on their SEFA information to specifically identify Recovery Act funding similar to the requirements for the recipient SEFA described above. This information is needed to allow the recipient to properly monitor subrecipient expenditure of ARRA funds as well as oversight by the Federal awarding agencies, Offices of Inspector General and the Government Accountability Office.

## **DAVIS BACON ACT REQUIREMENTS**

- A. Definitions. For purposes of this term, the Contract Work Hours and Safety Standards Act term, and the Recipient Functions term, the following definitions are applicable:
  - (1) **Award** means the Award by the Department of Energy (DOE) to a Recipient that includes a requirement to comply with the labor standards clauses and wage rate requirements of the Davis-Bacon Act (DBA) for work performed by all laborers and mechanics employed by Subrecipients, Contractors and subcontractors on projects funded by or assisted in whole or in part by and through the Federal Government pursuant to the Recovery Act.
  - (2) "**Construction, alteration or repair**" means all types of work done by laborers and mechanics employed by the Subrecipient, construction contractor or construction subcontractor on a particular building or work at the site thereof, including without limitation—
    - (a) Altering, remodeling, installation (if appropriate) on the site of the work of items fabricated off-site;
    - (b) Painting and decorating; or
    - (c) Manufacturing or furnishing of materials, articles, supplies, or equipment on the site of the building or work.
  - (3) **Contract** means a written procurement contract executed by a Subrecipient for the acquisition of property and services for construction, alteration, and repair under a Subaward. For purposes of these terms, a Contract shall include subcontracts and lower-tier subcontracts under the Contract.
  - (4) **Contracting Officer** means the DOE official authorized to execute awards on behalf of DOE and who is responsible for the business management and non-program aspects of the financial assistance process.
  - (5) **Contractor** means an entity that enters into a Contract. For purposes of these terms, Contractor shall include subcontractors and lower-tier subcontractors.

- (6) **Recipient** means any entity other than an individual that receives Recovery Act funds in the form of a grant directly from the Federal Government. The term includes the State that receives an Award from DOE and is financially accountable for the use of any DOE funds or property, and is legally responsible for carrying out the terms and conditions of the program and Award.
- (7) **"Site of the work"**—
- (a) Means—
    - (i) The physical place or places where the construction called for in the Award, Subaward, or Contract will remain when work on it is completed; and
    - (ii) Any other site where a significant portion of the building or work is constructed, provided that such site is established specifically for the performance of the project;
  - (b) Except as provided in paragraph (c) of this definition, the site of the work includes any fabrication plants, mobile factories, batch plants, borrow pits, job headquarters, tool yards, etc., provided—
    - (i) They are dedicated exclusively, or nearly so, to performance of the project; and
    - (ii) They are adjacent or virtually adjacent to the site of the work as defined in paragraphs (7)(a)(i) or (7)(a)(ii) of this definition; and
  - (c) Does not include permanent home offices, branch plant establishments, fabrication plants, or tool yards of a Contractor or subcontractor whose locations and continuance in operation are determined wholly without regard to a particular contract or Federal Award or project. In addition, fabrication plants, batch plants, borrow pits, job headquarters, yards, etc., of a commercial or material supplier which are established by a supplier of materials for the project before opening of applications and not on the project site as defined in paragraphs (7)(a)(i) or (7)(a)(ii) of this definition, are not included in the "site of the work." Such permanent, previously established facilities are not a part of the "site of the work" even if the operations for a period of time may be dedicated exclusively or nearly so, to the performance of an Award, Subaward, or Contract.
- (8) **Subaward** means an award of financial assistance in the form of money, or property in lieu of money, made under an award by a Recipient to an eligible Subrecipient or by a Subrecipient to a lower-tier subrecipient. The term includes financial assistance when provided by any legal agreement, even if the agreement is called a contract, but does not include the Recipient's procurement of goods and services to carry out the program nor does it include any form of assistance which is excluded from the definition of "Award" above.
- (9) **Subrecipient** means a non-Federal entity that expends Federal awards received from a pass-through entity [Recipient] to carry out a Federal program, but does not include an individual that is a beneficiary of such a program. The term includes a Community Action Agency (CAA), local agency, or other entity to which a Subaward under the Award is made by a Recipient that includes a requirement to comply with the labor standards clauses and wage rate requirements of the DBA work performed by all laborers and mechanics employed by contractors and subcontractors on projects funded by or assisted in whole or in part by and through the Federal Government pursuant of the Recovery Act.

B. Davis-Bacon Act

- (1)
- (a) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached to the Subaward or Contract and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Recipient, a Subrecipient, or Contractor and such laborers and mechanics.
    - (i) Applicable to Recipient Only: Prior to the issuance of the Subaward or Contract, the Recipient shall notify the Contracting Officer of the site of the work in order for the appropriate wage determination to be obtained by the Contracting Officer from the Secretary of Labor.

- (ii) If the Subaward or Contract is or has been issued without a wage determination, the Recipient shall notify the Contracting Officer immediately of the site of the work under the Subaward or Contract in order for the appropriate wage determination to be obtained by the Contracting Officer from the Secretary of Labor.
  - (b) Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the DBA on behalf of laborers or mechanics are considered wages paid to such laborers and mechanics, subject to the provisions of paragraph B(4) below; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such period.
  - (c) Such laborers and mechanics shall be paid not less than the appropriate wage rate and fringe benefits in the wage determination for the classification of work actually performed, without regard to skill, except as provided in the paragraph entitled Apprentices and Trainees. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein; provided that the employer's payroll records accurately set forth the time spent in each classification in which work is performed.
  - (d) The wage determination (including any additional classifications and wage rates conformed under paragraph B(2) of this term) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Subrecipient and Contractor at the site of the work in a prominent and accessible place where it can be easily seen by the workers.
- (2)
- (a) The Contracting Officer shall require that any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the Subaward or Contract shall be classified in conformance with the wage determination. The Contracting Officer shall approve an additional classification and wage rate and fringe benefits therefore only when all the following criteria have been met:
    - (i) The work to be performed by the classification requested is not performed by a classification in the wage determination.
    - (ii) The classification is utilized in the area by the construction industry.
    - (iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.
  - (b) If the Subrecipient (and Contractor, when applicable) and the laborers and mechanics to be employed in the classification (if known), or their representatives agree on the classification and wage rate (including the amount designated for fringe benefits, where appropriate), the Subrecipient shall notify the Recipient. The Recipient shall notify the Contracting Officer of this agreement. If the Contracting Officer agrees with the classification and wage rate (including the amount designated for fringe benefits, where appropriate), a report of the action taken shall be sent by the Contracting Officer to the Administrator of the:

Wage and Hour Division  
 Employment Standards Administration  
 U.S. Department of Labor  
 Washington, DC 20210

- (c) The Administrator or an authorized representative will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the Contracting Officer or will notify the Contracting Officer within the 30-day period that additional time is necessary.
- (d) In the event the Subrecipient (and Contractor, when applicable), and the laborers or mechanics to be employed in the classification, or their representatives, do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the Subrecipient shall notify the Recipient. The Recipient shall notify the Contracting Officer of the disagreement. The Contracting Officer shall refer the questions, including the views of all interested parties and the recommendation

of the Contracting Officer, to the Administrator of the Wage and Hour Division for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the Contracting Officer or will notify the Contracting Officer within the 30-day period that additional time is necessary.

- (e) The wage rate (including fringe benefits, where appropriate) determined pursuant to subparagraphs B(2)(b) or B(2)(c) of this Term shall be paid to all workers performing work in the classification under the Award, Subaward, or Contract from the first day on which work is performed in the classification.
- (3) Whenever the minimum wage rate prescribed in the Award, Subaward, or Contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the Subrecipient and Contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.
- (4) If the Subrecipient or Contractor does not make payments to a trustee or other third person, the Subrecipient or Contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program; provided, that the Secretary of Labor has found, upon the written request of the Subrecipient or Contractor that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Subrecipient or Contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

C. Rates of Wages

- (1) The minimum wages to be paid laborers and mechanics under the Subaward or Contract involved in performance of work at the project site, as determined by the Secretary of Labor to be prevailing for the corresponding classes of laborers and mechanics employed on projects of a character similar to the contract work in the pertinent locality, are included as an attachment to the Award, Subaward, or Contract.
- (2) If the Subaward or Contract has been issued without a wage determination, the Recipient shall notify the Contracting Officer immediately of the site of the work under the Subaward or Contract in order for the appropriate wage determination to be obtained by the Contracting Officer from the Secretary of Labor.

D. Payrolls and Basic Records

- (1) Payrolls and basic records relating thereto shall be maintained by the Recipient, Subrecipient and Contractor during the course of the work and preserved for a period of 3 years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made, and actual wages paid. Whenever the Secretary of Labor has found, under paragraph (4) of the provision entitled Davis-Bacon Act, that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Subrecipient or Contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. The Subrecipient or Contractor employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.
- (2)
  - (a) The Contractor shall submit weekly for each week in which any Contract work is performed a copy of all payrolls to the Subrecipient. The Subrecipient shall submit weekly for each week in which any Subaward or Contract work is performed a copy of all payrolls to the Recipient. The Recipient shall submit weekly for each week in which any Subaward or Contract work is performed a copy of all payrolls to the Contracting Officer. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under paragraph D(1) of this Term, except that the full social

security numbers and home addresses shall not be included on weekly transmittals. Instead, the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site.

- (b) The Recipient is responsible for ensuring that all Subrecipients and Contractors submit copies of payrolls and basic records as required by paragraph D, Payrolls and Basic Records, of this Term. The Subrecipient is responsible for ensuring all Contractors, including lower tier subcontractors submit copies of payrolls and basic records as required by paragraph D, Payrolls and Basic Records, of this term. Subrecipients and Contractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request for transmission to the Contracting Officer, the Recipient, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. The Recipient shall also obtain and provide the full social security number and current address of each covered worker upon request by the Contracting Officer or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a Recipient to require a Subrecipient or Contractor to provide addresses and social security numbers to the Recipient for its own records, without weekly submission to the Contracting Officer.
  - (c) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the Recipient, Subrecipient or Contractor or his or her agent who pays or supervises the payment of the persons employed under the Subaward or Contract and shall certify—
    - (i) That the payroll for the payroll period contains the information required to be maintained under paragraph D(2)(a) of this Term, the appropriate information is being maintained under paragraph D(1) of this Term, and that such information is correct and complete;
    - (ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the Subaward or Contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in the Regulations, 29 CFR Part 3; and
    - (iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the Subaward or Contract.
  - (d) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph D(2)(c) of this Term.
  - (e) The falsification of any of the certifications in Paragraph D, Payrolls and Basic Records, of this Term may subject the Recipient, Subrecipient or Contractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 3729 of Title 31 of the United States Code.
- (3) The Recipient, Subrecipient, or Contractor shall make the records required under paragraph D(1) of this Term available for inspection, copying, or transcription by the Contracting Officer, authorized representatives of the Contracting Officer, or the Department of Labor. The Subrecipient or Contractor shall permit the Contracting Officer, authorized representatives of the Contracting Officer or the Department of Labor to interview employees during working hours on the job. If the Recipient, Subrecipient, or Contractor fails to submit the required records or to make them available, the Contracting Officer may, after written notice to the Recipient, Subrecipient, or Contractor take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required

records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

E. Withholding of Funds

- (1) The DOE Contracting Officer shall, upon his or her or its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the Recipient or any other contract or Federal Award with the same Recipient, on this or any other federally assisted Award subject to Davis-Bacon prevailing wage requirements, which is held by the same Recipient so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the Subrecipient or a Contractor the full amount of wages required by the Award or Subaward or a Contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the Award or Subaward or a Contract, the Contracting Officer may, after written notice to the Recipient take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.
- (2) The Recipient shall, upon its own action or upon written request of the DOE Contracting Officer or an authorized representative of the Department of Labor, withhold or cause to be withheld from any Subrecipient or Contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the Subrecipient or Contractor the full amount of wages required by the Subaward or Contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the Subaward or Contract, the Recipient may, after written notice to the Subrecipient or Contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased or the Government may cause the suspension of any further payment under any other contract or Federal award with the same Subrecipient or Contractor, on any other federally assisted Award subject to Davis-Bacon prevailing wage requirements, which is held by the same Subrecipient or Contractor.

F. Apprentices and Trainees

(1) Apprentices.

- (a) An apprentice will be permitted to work at less than the predetermined rate for the work they performed when they are employed—
  - (b) Pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship and Training, Employer, and Labor Services (OATELS) or with a State Apprenticeship Agency recognized by the OATELS; or
  - (c) In the first 90 days of probationary employment as an apprentice in such an apprenticeship program, even though not individually registered in the program, if certified by the OATELS or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.
- (2) The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the Subrecipient or Contractor as to the entire work force under the registered program.
  - (3) Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated in paragraph F(1) of this Term, shall be paid not less than the applicable wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.
  - (4) Where a Subrecipient or Contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Subrecipient's or Contractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination.

- (5) Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.
- (6) In the event OATELS, or a State Apprenticeship Agency recognized by OATELS, withdraws approval of an apprenticeship program, the Subrecipient or Contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.
- (7) Trainees.
  - (a) Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by (OATELS). The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by OATELS.
  - (b) Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed in the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship/training program associated with the corresponding journeyman wage rate in the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the OATELS shall be paid not less than the applicable wage rate in the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate in the wage determination for the work actually performed.
  - (c) In the event OATELS withdraws approval of a training program, the Subrecipient or Contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.
- (8) Equal employment opportunity. The utilization of apprentices, trainees, and journeymen under this Term shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

G. Compliance with Copeland Act Requirements

The Recipient, Subrecipient or Contractor shall comply with the requirements of 29 CFR Part 3 which are hereby incorporated by reference in the Award, Subaward or Contract.

H. Subawards and Contracts

- (1) The Recipient, the Subrecipient and Contractor shall insert in the Subaward or any Contracts this Term entitled "Davis Bacon Act Requirements" and such other terms as the Contracting Officer may require. The Recipient shall be responsible for ensuring compliance by any Subrecipient or Contractor with all of the requirements contained in this Term. The Subrecipient shall be responsible for the compliance by Contractor with all of the requirements contained in this Term.
- (2) Within 14 days after issuance of a Subaward, the Recipient shall deliver to the Contracting Officer a completed Standard Form (SF) 1413, Statement and Acknowledgment, for each Subaward and Contract for construction within the United States, including the Subrecipient's and Contractor's signed and dated acknowledgment that this Term has been included in the Subaward and any Contracts. The SF 1413 is available from the Contracting Officer or at [http://contacts.gsa.gov/webforms.nsf/0/70B4872D16EE95A785256A26004F7EA8/\\$file/sf1413\\_e.pdf](http://contacts.gsa.gov/webforms.nsf/0/70B4872D16EE95A785256A26004F7EA8/$file/sf1413_e.pdf). Within 14 days after issuance of a Contract or lower- tier subcontract, the Subrecipient shall deliver to the Recipient a completed Standard Form (SF) 1413, Statement and Acknowledgment, for each Contract and lower-tier subcontract for construction within the United States, including the Contractor and lower- tier subcontractor's signed and dated acknowledgment that this Term

has been included in any Contract and lower-tier subcontracts. SF 1413 is available from the Contracting Officer or at [http://contacts.gsa.gov/webforms.nsf/0/70B4872D16EE95A785256A26004F7EA8/\\$file/sf1413\\_e.pdf](http://contacts.gsa.gov/webforms.nsf/0/70B4872D16EE95A785256A26004F7EA8/$file/sf1413_e.pdf). The Recipient shall immediately provide to the DOE Contracting Officer the completed Standard Forms (SF) 1413.

I. Contract Termination—Debarment

A breach of these provisions may be grounds for termination of the Award, Subaward, or Contract and for debarment as a Contractor or subcontractor as provided in 29 CFR 5.12.

J. Compliance with Davis-Bacon and Related Act Regulations

All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are hereby incorporated by reference in the Award, Subaward or Contract.

K. Disputes Concerning Labor Standards

The United States Department of Labor has set forth in 29 CFR Parts 5, 6, and 7 procedures for resolving disputes concerning labor standards requirements. Such disputes shall be resolved in accordance with those procedures and shall not be subject to any other dispute provision that may be contained in the Award, Subaward, and Contract. Disputes within the meaning of this Term include disputes between the Recipient, Subrecipient (including any Contractor) and the Department of Energy, the U.S. Department of Labor, or the employees or their representatives.

L. Certification of Eligibility.

- (1) By entering into this Award, Subaward, or Contract (as applicable), the Recipient, Subrecipient, or Contractor, respectively certifies that neither it (nor he or she) nor any person or firm who has an interest in the Recipient, Subrecipient, or Contractor's firm, is a person, entity, or firm ineligible to be awarded Government contracts or Government awards by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
- (2) No part of this Award, Subaward or Contract shall be subcontracted to any person or firm ineligible for award of a Government contract or Government award by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
- (3) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

M. Approval of Wage Rates

All straight time wage rates, and overtime rates based thereon, for laborers and mechanics engaged in work under an Award, Subaward or Contract must be submitted for approval in writing by the head of the federal contracting activity or a representative expressly designated for this purpose, if the straight time wages exceed the rates for corresponding classifications contained in the applicable Davis-Bacon Act minimum wage determination included in the Award, Subaward or Contract. Any amount paid by the Subrecipient or Contractor to any laborer or mechanic in excess of the agency approved wage rate shall be at the expense of the Subrecipient or Contractor and shall not be reimbursed by the Recipient or Subrecipient. If the Government refuses to authorize the use of the overtime, the Subrecipient or Contractor is not released from the obligation to pay employees at the required overtime rates for any overtime actually worked.

### **Contract Work Hours and Safety Standards Act**

This Term entitled "Contract Work Hours and Safety Standards Act (CWHSSA)" shall apply to any Subaward or Contract in an amount in excess of \$100,000. As used in this CWHSSA Term, the terms laborers and mechanics include watchmen and guards.

- A. Overtime requirements. No Subrecipient or Contractor contracting for any part of the Subaward work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

IN WITNESS THEREOF, the parties have executed this Agreement

**SUBCONTRACTOR**

SIGNED: \_\_\_\_\_ DATE: \_\_\_\_\_  
NAME (PRINTED): \_\_\_\_\_ TITLE: \_\_\_\_\_  
BUSINESS: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_  
CITY, STATE, ZIP: \_\_\_\_\_  
TELEPHONE: \_\_\_\_\_ FACSIMILE: \_\_\_\_\_

**CONTRACTOR – To be signed after State review**

SIGNED: \_\_\_\_\_ DATE: \_\_\_\_\_  
NAME (PRINTED): \_\_\_\_\_ TITLE: \_\_\_\_\_  
BUSINESS: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_  
CITY, STATE, ZIP: \_\_\_\_\_  
TELEPHONE: \_\_\_\_\_ FACSIMILE: \_\_\_\_\_