MARGARET WOOD HASSAN
GOVERNOR

STATE OF NEW HAMPSHIRE
OFFICE OF ENERGY AND PLANNING
107 Pleasant Street, Johnson Hall
Concord, NH 03301-3834
Telephone: (603) 271-2155
Fax: (603) 271-2615

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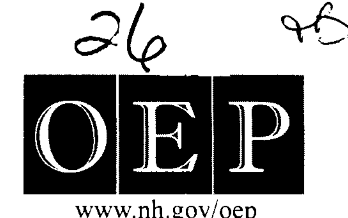

www.nh.gov/oep

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December 12, 2014

ARRA Program
Sole Source

Her Excellency, Governor Margaret Wood Hassan
and the Honorable Council
State House
Concord, NH 03301

REQUESTED ACTION

The Office of Energy and Planning (OEP) respectfully requests authorization to enter into a **SOLE SOURCE** contract with the Community Development Finance Authority (CDFA), (Vendor #177292), Concord, NH, to operate existing revolving loan funds and loan loss reserves which support a program known as Better Buildings under the terms of an American Recovery and Reinvestment Act – Energy Efficiency and Conservation Block Grant's Retrofit Ramp-up Program (Retrofit Ramp-up) award to OEP from the Department of Energy, effective January 1, 2015 upon Governor and Executive Council approval through December 31, 2016. This contract enables CDFA to continue managing the loan funds and ensures continued compliance with federal funding restrictions and requirements.

EXPLANATION

Under this contract, CDFA agrees to continue to operate Better Buildings according to guidelines issued by the US Department of Energy through the Energy Efficiency and Conservation Block Grant Program for revolving loan funds. CDFA has managed the program since its creation under the authority of a contract between OEP and CDFA first approved by the Governor and Executive Council on July 14, 2010 (Item #9), and subsequently amended and approved by the Governor and Executive Council on April 3, 2013 (Item #6), July 24, 2013 (Item #1), and October 15, 2014 (Item #25). With $10 million in original funding from the U.S. Department of Energy's Better Buildings Neighborhood Program, the NH Better Buildings program initially provided funds to allow the three "Beacon Communities" of Berlin, Nashua and Plymouth to achieve transformative energy savings through deep energy retrofits and complementary sustainable energy projects. The program's goal was to reduce energy use by at least 15% through energy efficiency upgrades in residential and commercial buildings. The program expanded statewide in April 2012 through a competitive commercial RFP and a partnership with the state's utility administered, ratepayer funded Home Performance with ENERGY STAR® (HPwES) program. During the program, four financial products were established:

1. Better Buildings Residential Revolving Loan Fund (Residential RLF) – 0% on-bill financing through partnership with the state's utility run Home Performance with ENERGY STAR® (HPwES) program
2. Better Buildings Residential Loan Loss Reserve (Residential LLR) – 50% loan loss reserve funds backing residential bank and credit union loans for energy efficiency
3. Better Buildings Commercial Revolving Loan Fund (Commercial RLF) – 2% - 4% co-lending agreements for commercial energy efficiency loans with local banks and credit unions
4. Better Buildings Commercial Loan Loss Reserve (Commercial LLR) – 50% loan loss reserve funds backing commercial bank and credit union loans for energy efficiency

TDD Access: Relay NH 1-800-735-2964

Residential and commercial loan repayments and interest income accumulate in two Revolving Loan Funds (RLF) to be utilized for future loans. The two Loan Loss Reserves earn interest and are available to back additional loans once the aggregate outstanding loan principal is less than the amount of the reserve.

CDFA and its partners have loaned approximately $3.1 million to 345 qualified New Hampshire businesses and residents to date under the program. CDFA will receive principal and interest payments on those loans for up to the next 25 years. Additional loans will be made with funds revolving back into the program as described in the accompanying contract exhibits.

This agreement will allow CDFA to continue to provide funding for cost effective energy efficiency projects undertaken by New Hampshire residents, businesses, and nonprofits, according to the terms and conditions accompanying the Federal award and additional Federal guidance governing the administration of the funds, and will allow for continued monitoring and reporting on the impact of such funds to US DOE. Funding for CDFA's management of the Better Buildings funds will come from program funds currently held by CDFA, and from any program income, as described in Exhibit B.

This contract is **SOLE SOURCE** because CDFA has successfully managed the Better Buildings program under the original ARRA-EECBG award from the US Department of Energy, and is uniquely suited to manage these public funds for the purposes of supporting energy efficiency investments in New Hampshire.

In the event that Better Buildings Federal program funds are no longer available, General Funds will not be requested to support this program.

Sincerely,

Meredith A. Hatfield
Director

MAH/KPC
Attachments

Subject: Community Development Finance Authority – Better Buildings - Revolving Loan Fund Administration

AGREEMENT
The State of New Hampshire and the Contractor hereby mutually agree as follows:

GENERAL PROVISIONS

1. **IDENTIFICATION.**

1.1 State Agency Name Office of Energy and Planning		1.2 State Agency Address 107 Pleasant St, Johnson Hall Concord, New Hampshire 03301	
1.3 Contractor Name . Community Development Finance Authority		1.4 Contractor Address 14 Dixon Avenue, Suite 102, Concord NH 03301	
1.5 Contractor Phone No. 603-226-2170	1.6 Account Number N/A	1.7 Completion Date December 31, 2016	1.8 Price Limitation N/A
1.9 Contracting Officer for State Agency Karen Cramton, Deputy Director		1.10 State Agency Telephone Number (603) 271-2155	
1.11 Contractor Signature		1.12 Name and Title of Contractor Signatory Taylor Caswell, Executive Director	

1.13 Acknowledgment: State of New Hampshire County of Hillsborough
On 12/12/14, before the undersigned officer, personally appeared the person identified in block 1.12., or satisfactorily proven to be the person whose name is signed in block 1.11., and acknowledged that s/he executed this document in the capacity indicated in block 1.12.

1.13.1 Signature of Notary Public or Justice of the Peace

[SEAL]

1.13.2 Name and Title of Notary Public or Justice of the Peace

1.14 State Agency Signature

1.15 Name and Title of State Agency Signatory
Meredith A. Hatfield, Director
Office of Energy and Planning

1.16 Approval by the N.H. Department of Administration, Division of Personnel *(if applicable)*

By: Director, On:

1.17 Approval by Attorney General (Form, Substance and Execution)

By: On: 12/15/2014

1.18 Approval by the Governor and Executive Council

By: On:

Contractor Initials _____
Date _____

2. EMPLOYMENT OF CONTRACTOR/SERVICES TO BE PERFORMED. The State of New Hampshire, acting through the agency identified in block 1.1 ("State"), engages contractor identified in block 1.3 ("Contractor") to perform, and the Contractor shall perform, the work or sale of goods, or both, identified and more particularly described in the attached EXHIBIT A which is incorporated herein by reference ("Services").

3. EFFECTIVE DATE/COMPLETION OF SERVICES.
3.1 Notwithstanding any provision of this Agreement to the contrary, and subject to the approval of the Governor and Executive Council of the State of New Hampshire, this Agreement, and all obligations of the parties hereunder, shall not become effective until the date the Governor and Executive Council approve this Agreement ("Effective Date").
3.2 If the Contractor commences the Services prior to the Effective Date, all Services performed by the Contractor prior to the Effective Date shall be performed at the sole risk of the Contractor, and in the event that this Agreement does not become effective, the State shall have no liability to the Contractor, including without limitation, any obligation to pay the Contractor for any costs incurred or Services performed. Contractor must complete all Services by the Completion Date specified in block 1.7.

4. CONDITIONAL NATURE OF AGREEMENT.
Notwithstanding any provision of this Agreement to the contrary, all obligations of the State hereunder, including, without limitation, the continuance of payments hereunder, are contingent upon the availability and continued appropriation of funds, and in no event shall the State be liable for any payments hereunder in excess of such available appropriated funds. In the event of a reduction or termination of appropriated funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate this Agreement immediately upon giving the Contractor notice of such termination. The State shall not be required to transfer funds from any other account to the Account identified in block 1.6 in the event funds in that Account are reduced or unavailable.

5. CONTRACT PRICE/PRICE LIMITATION/ PAYMENT.
5.1 The contract price, method of payment, and terms of payment are identified and more particularly described in EXHIBIT B which is incorporated herein by reference.
5.2 The payment by the State of the contract price shall be the only and the complete reimbursement to the Contractor for all expenses, of whatever nature incurred by the Contractor in the performance hereof, and shall be the only and the complete compensation to the Contractor for the Services. The State shall have no liability to the Contractor other than the contract price.
5.3 The State reserves the right to offset from any amounts otherwise payable to the Contractor under this Agreement those liquidated amounts required or permitted by N.H. RSA 80:7 through RSA 80:7-c or any other provision of law.
5.4 Notwithstanding any provision in this Agreement to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments authorized, or actually made hereunder, exceed the Price Limitation set forth in block 1.8.

6. COMPLIANCE BY CONTRACTOR WITH LAWS AND REGULATIONS/ EQUAL EMPLOYMENT OPPORTUNITY.
6.1 In connection with the performance of the Services, the Contractor shall comply with all statutes, laws, regulations, and orders of federal, state, county or municipal authorities which impose any obligation or duty upon the Contractor, including, but not limited to, civil rights and equal opportunity laws. In addition, the Contractor shall comply with all applicable copyright laws.
6.2 During the term of this Agreement, the Contractor shall not discriminate against employees or applicants for employment because of race, color, religion, creed, age, sex, handicap, sexual orientation, or national origin and will take affirmative action to prevent such discrimination.
6.3 If this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all the provisions of Executive Order No. 11246 ("Equal Employment Opportunity"), as supplemented by the regulations of the United States Department of Labor (41 C.F.R. Part 60), and with any rules, regulations and guidelines as the State of New Hampshire or the United States issue to implement these regulations. The Contractor further agrees to permit the State or United States access to any of the Contractor's books, records and accounts for the purpose of ascertaining compliance with all rules, regulations and orders, and the covenants, terms and conditions of this Agreement.

7. PERSONNEL.
7.1 The Contractor shall at its own expense provide all personnel necessary to perform the Services. The Contractor warrants that all personnel engaged in the Services shall be qualified to perform the Services, and shall be properly licensed and otherwise authorized to do so under all applicable laws.
7.2 Unless otherwise authorized in writing, during the term of this Agreement, and for a period of six (6) months after the Completion Date in block 1.7, the Contractor shall not hire, and shall not permit any subcontractor or other person, firm or corporation with whom it is engaged in a combined effort to perform the Services to hire, any person who is a State employee or official, who is materially involved in the procurement, administration or performance of this Agreement. This provision shall survive termination of this Agreement.
7.3 The Contracting Officer specified in block 1.9, or his or her successor, shall be the State's representative. In the event of any dispute concerning the interpretation of this Agreement, the Contracting Officer's decision shall be final for the State.

8. EVENT OF DEFAULT/REMEDIES.
8.1 Any one or more of the following acts or omissions of the Contractor shall constitute an event of default hereunder ("Event of Default"):
8.1.1 failure to perform the Services satisfactorily or on schedule;
8.1.2 failure to submit any report required hereunder; and/or
8.1.3 failure to perform any other covenant, term or condition of this Agreement.
8.2 Upon the occurrence of any Event of Default, the State may take any one, or more, or all, of the following actions:
8.2.1 give the Contractor a written notice specifying the Event of Default and requiring it to be remedied within, in the absence of a greater or lesser specification of time, thirty (30) days from the date of the notice; and if the Event of Default is not timely remedied, terminate this Agreement, effective two

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Date 12/12/14

(2) days after giving the Contractor notice of termination;
8.2.2 give the Contractor a written notice specifying the Event of Default and suspending all payments to be made under this Agreement and ordering that the portion of the contract price which would otherwise accrue to the Contractor during the period from the date of such notice until such time as the State determines that the Contractor has cured the Event of Default shall never be paid to the Contractor;
8.2.3 set off against any other obligations the State may owe to the Contractor any damages the State suffers by reason of any Event of Default; and/or
8.2.4 treat the Agreement as breached and pursue any of its remedies at law or in equity, or both.

9. DATA/ACCESS/CONFIDENTIALITY/ PRESERVATION.
9.1 As used in this Agreement, the word "data" shall mean all information and things developed or obtained during the performance of, or acquired or developed by reason of, this Agreement, including, but not limited to, all studies, reports, files, formulae, surveys, maps, charts, sound recordings, video recordings, pictorial reproductions, drawings, analyses, graphic representations, computer programs, computer printouts, notes, letters, memoranda, papers, and documents, all whether finished or unfinished.
9.2 All data and any property which has been received from the State or purchased with funds provided for that purpose under this Agreement, shall be the property of the State, and shall be returned to the State upon demand or upon termination of this Agreement for any reason.
9.3 Confidentiality of data shall be governed by N.H. RSA chapter 91-A or other existing law. Disclosure of data requires prior written approval of the State.

10. TERMINATION. In the event of an early termination of this Agreement for any reason other than the completion of the Services, the Contractor shall deliver to the Contracting Officer, not later than fifteen (15) days after the date of termination, a report ("Termination Report") describing in detail all Services performed, and the contract price earned, to and including the date of termination. The form, subject matter, content, and number of copies of the Termination Report shall be identical to those of any Final Report described in the attached EXHIBIT A.

11. CONTRACTOR'S RELATION TO THE STATE. In the performance of this Agreement the Contractor is in all respects an independent contractor, and is neither an agent nor an employee of the State. Neither the Contractor nor any of its officers, employees, agents or members shall have authority to bind the State or receive any benefits, workers' compensation or other emoluments provided by the State to its employees.

12. ASSIGNMENT/DELEGATION/SUBCONTRACTS.
The Contractor shall not assign, or otherwise transfer any interest in this Agreement without the prior written consent of the N.H. Department of Administrative Services. None of the Services shall be subcontracted by the Contractor without the prior written consent of the State.

13. INDEMNIFICATION. The Contractor shall defend, indemnify and hold harmless the State, its officers and employees, from and against any and all losses suffered by the State, its officers and employees, and any and all claims, liabilities or penalties asserted against the State, its officers and employees, by or on behalf of any person, on account of, based or resulting from, arising out of (or which may be claimed to arise out of) the acts or omissions of the Contractor. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved to the State. This covenant in paragraph 13 shall survive the termination of this Agreement.

14. INSURANCE.
14.1 The Contractor shall, at its sole expense, obtain and maintain in force, and shall require any subcontractor or assignee to obtain and maintain in force, the following insurance:
14.1.1 comprehensive general liability insurance against all claims of bodily injury, death or property damage, in amounts of not less than $250,000 per claim and $2,000,000 per occurrence; and
14.1.2 fire and extended coverage insurance covering all property subject to subparagraph 9.2 herein, in an amount not less than 80% of the whole replacement value of the property.
14.2 The policies described in subparagraph 14.1 herein shall be on policy forms and endorsements approved for use in the State of New Hampshire by the N.H. Department of Insurance, and issued by insurers licensed in the State of New Hampshire.
14.3 The Contractor shall furnish to the Contracting Officer identified in block 1.9, or his or her successor, a certificate(s) of insurance for all insurance required under this Agreement. Contractor shall also furnish to the Contracting Officer identified in block 1.9, or his or her successor, certificate(s) of insurance for all renewal(s) of insurance required under this Agreement no later than fifteen (15) days prior to the expiration date of each of the insurance policies. The certificate(s) of insurance and any renewals thereof shall be attached and are incorporated herein by reference. Each certificate(s) of insurance shall contain a clause requiring the insurer to endeavor to provide the Contracting Officer identified in block 1.9, or his or her successor, no less than ten (10) days prior written notice of cancellation or modification of the policy.

15. WORKERS' COMPENSATION.
15.1 By signing this agreement, the Contractor agrees, certifies and warrants that the Contractor is in compliance with or exempt from, the requirements of N.H. RSA chapter 281-A *("Workers' Compensation").*
15.2 To the extent the Contractor is subject to the requirements of N.H. RSA chapter 281-A, Contractor shall maintain, and require any subcontractor or assignee to secure and maintain, payment of Workers' Compensation in connection with activities which the person proposes to undertake pursuant to this Agreement. Contractor shall furnish the Contracting Officer identified in block 1.9, or his or her successor, proof of Workers' Compensation in the manner described in N.H. RSA chapter 281-A and any applicable renewal(s) thereof, which shall be attached and are incorporated herein by reference. The State shall not be responsible for payment of any Workers' Compensation premiums or for any other claim or benefit for Contractor, or any subcontractor or employee of Contractor, which might arise under applicable State of New Hampshire Workers' Compensation laws in connection with the performance of the Services under this Agreement.

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Date 12/12/14

16. WAIVER OF BREACH. No failure by the State to enforce any provisions hereof after any Event of Default shall be deemed a waiver of its rights with regard to that Event of Default, or any subsequent Event of Default. No express failure to enforce any Event of Default shall be deemed a waiver of the right of the State to enforce each and all of the provisions hereof upon any further or other Event of Default on the part of the Contractor.

17. NOTICE. Any notice by a party hereto to the other party shall be deemed to have been duly delivered or given at the time of mailing by certified mail, postage prepaid, in a United States Post Office addressed to the parties at the addresses given in blocks 1.2 and 1.4, herein.

18. AMENDMENT. This Agreement may be amended, waived or discharged only by an instrument in writing signed by the parties hereto and only after approval of such amendment, waiver or discharge by the Governor and Executive Council of the State of New Hampshire.

19. CONSTRUCTION OF AGREEMENT AND TERMS. This Agreement shall be construed in accordance with the laws of the State of New Hampshire, and is binding upon and inures to the benefit of the parties and their respective successors and assigns. The wording used in this Agreement is the wording chosen by the parties to express their mutual intent, and no rule of construction shall be applied against or in favor of any party.

20. THIRD PARTIES. The parties hereto do not intend to benefit any third parties and this Agreement shall not be construed to confer any such benefit.

21. HEADINGS. The headings throughout the Agreement are for reference purposes only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

22. SPECIAL PROVISIONS. Additional provisions set forth in the attached EXHIBIT C are incorporated herein by reference.

23. SEVERABILITY. In the event any of the provisions of this Agreement are held by a court of competent jurisdiction to be contrary to any state or federal law, the remaining provisions of this Agreement will remain in full force and effect.

24. ENTIRE AGREEMENT. This Agreement, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire Agreement and understanding between the parties, and supersedes all prior Agreements and understandings relating hereto.

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Date

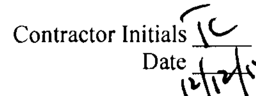

Exhibit A – Scope of Services

American Recovery and Reinvestment Act - Energy Efficiency and Conservation Block Grant Better Buildings Revolving Loan Fund and Loan Loss Reserve Management

1. PROGRAM DESCRIPTION AND PURPOSE

This contract is between the State of New Hampshire, Office of Energy and Planning, Johnson Hall, 107 Pleasant Street, Concord, Merrimack County, New Hampshire 03301 (OEP) and the New Hampshire Community Development Finance Authority (CDFA), 14 Dixon Avenue, Suite 102, Concord, Merrimack County, New Hampshire, 03301.

With $10 million in funding from the U.S. Department of Energy's Better Buildings Neighborhood Program, the NH Better Buildings program was established as an initiative that initially empowered the three diverse Beacon Communities of Berlin, Nashua and Plymouth to achieve transformative energy savings, and reductions in fossil fuel use and greenhouse gases through deep energy retrofits and complementary sustainable energy solutions. The program's goal was to reduce energy use by a minimum of 15% through energy efficiency upgrades in these communities' residential and commercial building sectors. The program expanded statewide in April 2012 through a competitive commercial RFP and a partnership with the state's utility run, rate-payer funded, Home Performance with ENERGY STAR® (HPwES) program. Four financial products were established with funds from the American Recovery and Reinvestment Act (ARRA) Energy Efficiency and Conservation Block Grant (EECBG) grant DE-EE-0003576, CFDA # 81.128, provided to OEP by the federal Department of Energy (DOE):

1. Better Buildings Residential Revolving Loan Fund (Residential RLF) – 0% on-bill financing through partnership with the state's utility run Home Performance with ENERGY STAR® (HPwES) program
2. Better Buildings Residential Loan Loss Reserve (Residential LLR) – 50% loan loss reserve funds backing residential bank and credit union loans for energy efficiency
3. Better Buildings Commercial Revolving Loan Fund (Commercial RLF) – 2% - 4% co-lending agreements for commercial energy efficiency loans with local banks and credit unions
4. Better Buildings Commercial Loan Loss Reserve (Commercial LLR) – 50% loan loss reserve funds backing commercial bank and credit union loans for energy efficiency

Residential on-bill financing and commercial co-lending loan repayments and interest income accumulate in two Revolving Loan Funds (RLF) to be utilized for future loans. The two loan loss reserves earn interest and are available to back additional loans once the aggregate outstanding loan principal is less than the amount of the reserve. A contract between OEP and CDFA stipulating the terms and conditions under which the Better Buildings Funds were to be established and administered was approved by Governor and Executive Council on July 14, 2010 (Item #9), and was subsequently amended and approved by the New Hampshire Executive Council on April 3, 2013 (Item #6), July 24, 2013 (Item #1), and October 15, 2014 (item #25).

The purpose of this contract between OEP and CDFA is to identify the terms and conditions under which the program shall be managed now that the original funds provided under a previous agreement have been fully expended. For the purposes of this contract, all references to Better Buildings or RLF or LLR shall apply to any subsequent or successor revolving loan fund or financial program administered by

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Date 12/12/14

CDFA or its assigns that utilizes the capital and/or repaid principal and interest and fees from loans made under the original agreement between CDFA and OEP referenced above.

This program shall be administered in accordance with EECBG Program Notice 09-002D "Guidance for Energy Efficiency and Conservation Block Grant Grantees on Financing Programs" revised on October 17, 2012, as may be amended from time to time by U.S. Department of Energy. This Program Notice is included as Exhibit C to this contract and should be used as reference for administration of Better Buildings.

2. DEFINITIONS

2.1. Qualified Business: A for profit or nonprofit entity that is
a) Registered with the NH Secretary of State's office at the time of loan or incentive;
b) Not debarred from receiving federal funds as determined by their appearance on the federal excluded parties list system (www.sams.gov) as of the time of loan or incentive;
c) Proposing to use funds from Better Buildings RLF for Allowable Project Purposes; and
d) Meeting all relevant requirements set by CDFA loan committee or other body duly authorized to make loan decisions under this program.

2.2. Qualified Residents: New Hampshire residential property owners that qualify for the HPwES program.

2.3. Partners: Entities that have a contractual relationship with CDFA to assist in the execution of Better Buildings work performed under this agreement.

2.4. Allowable Project Purposes: Better Buildings projects must achieve a minimum 15% energy saving by installing measures that include the following, provided that the projects in which such measures are undertaken otherwise meet the terms and conditions contained in this agreement: air sealing and insulation; HVAC equipment replacement; photovoltaics and solar hot water systems that are categorically excluded under the National Environmental Policy Act (NEPA); energy recovery systems; energy efficient lighting, windows, doors, fans, motors, equipment; and energy assessments / audits to buildings located in New Hampshire and owned by the residential, for profit or nonprofit borrower. Any other project purposes must be approved in writing by OEP in advance of loans being approved by CDFA and/or its Partners.

2.5. Program Income: Payments made to CDFA or its Partners from borrowers in the form of interest, fees and penalties, or any other payments relating to loans or grants, except for repayment of principal on loans, originating with BetterBuildings funds provided by OEP's ARRA Energy Efficiency and Conservation Block Grant.

2.6. Program Period/Completion Date: This contract is effective from Governor and Executive Council approval date through December 31, 2016 for program activities and financing product administration. The New Hampshire Office of Energy and Planning at any time, in its sole discretion, may terminate the contract or postpone or delay all and any part of this contract, upon written notice.

3. SCOPE OF SERVICES

3.1. Residential Loan and Incentive Programs:

3.1.1. CDFA will administer the Better Buildings Residential RLF to provide financing resources to the state's utility administered, ratepayer funded residential Home Performance with ENERGY STAR® (HPwES) program to improve the energy efficiency of homes. Upon NH Public Utilities Commission (PUC) approval, the Better Buildings Residential RLF may be utilized to support HPwES in several ways:

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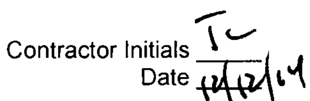

through co-lending, a loan loss reserve, or interest rate buy-downs. During the 2015 HPwES program year, Residential RLF funds will be allocated for interest rate buy-downs for HPwES loans. Partner banks and credit unions will determine the eligibility of Qualified Residents for interest rate buy-downs and loans and will follow all relevant internal policies for lending money to ensure sound investments and to minimize losses. Support will be reevaluated annually and defined in an annual Residential RLF Management Plan.

3.1.2. CDFA and/or its Partners may leverage additional funds to further capitalize Better Buildings Residential Revolving Loan Fund as long as such funds are accounted for distinctly from the ARRA-EECBG funds.

3.1.3. CDFA will receive loan repayments from existing Residential RLF borrowers (Unitil and PSNH) and shall make quarterly payments to the six NH Electric and Gas HPwES programs as described in the annual residential RLF management plan. Program income collected in excess of the amount allocated for Program Delivery Costs must be used to fund loans and/or incentives for Allowable Project Purposes based on the OEP-approved Residential RLF Management Plan.

3.1.4 No new loan or incentive program shall be executed by CDFA until OEP has been notified and has approved in writing the Residential RLF Management Plan for the period in which the loan or incentive is to be executed, as described in section 3.5 of this Agreement.

3.2. <u>Commercial Loan and Incentive Programs</u>:

3.2.1. CDFA will administer the Better Buildings Commercial funds to provide financial resources to Qualified Businesses to improve the energy efficiency of buildings and related systems, and to incorporate cost-effective renewable energy systems when appropriate. Through its loan application and review process, CDFA will determine the eligibility of Qualified Businesses for funding, and will follow all relevant internal policies for lending money to ensure sound investments and to minimize losses.

3.2.2. CDFA and/or its Partners may leverage additional funds to further capitalize Better Buildings Commercial Revolving Loan Fund as long as such funds are accounted for distinctly from the ARRA-EECBG funds.

3.2.3. CDFA will collect loan repayments and interest, default payments, late payments, fees and other penalties, or any other payments relating to loans. CDFA may use Program Income to fund loans and/or incentives to Qualified Businesses for Allowable Project Purposes in accordance with the OEP-approved Commercial RLF Management Plan. In accordance with Exhibit B, CDFA may also use Program Income for reimbursement of Administrative Costs related to the administration of the commercial RLF, as well as for Commercial Program Delivery Costs.

3.2.4 CDFA shall notify OEP in writing regarding any renewable energy projects it seeks to fund consisting of the installation of projects that have not previously received categorical exclusion under the National Environmental Policy Act (NEPA), and will delay a final loan decision until it is determined by OEP that the project complies with federal rules regarding NEPA, including State Historic Preservation rules and regulations. OEP reserves the right to reject proposals or projects that trigger NEPA or historic preservation rules without seeking DOE approval.

3.2.5 No new loan or grant shall be executed by CDFA until OEP has approved in writing the Commercial RLF Management Plan for the period in which the loan or grant is to be executed, as described in section 3.5 of this Agreement.

3.3. <u>Residential and Commercial Loan Loss Reserves</u>:

3.3.1. CDFA will administer Better Buildings Loan Loss Reserve accounts to provide guarantees to banks and credit unions which provide loans to Qualified Businesses and Qualified Residents to improve the energy efficiency of buildings and related systems, and to incorporate cost-effective renewable energy systems. CDFA will confirm the eligibility of the Qualified Business or Qualified Resident for funding.

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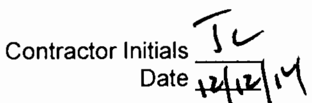
Date


3.3.2. No new loan shall be guaranteed by banks or credit unions until OEP has approved in writing the Residential and/or Commercial LLR Management Plan for the period in which the loan is to be executed, as described in section 3.5 of this Agreement.

3.4. Management Reports:

3.4.1. CDFA shall provide Management Reports to OEP as required to meet U.S. Department of Energy program reporting requirements. Within 7 days of receipt of a Management Report, OEP will identify in writing any and all concerns, recommendations, and requests for additional information required of CDFA relating to the Management Report. Once all such requests have been satisfied, OEP will issue approval of the Management Report.

Management Reports shall consist of the following elements and are due on a quarterly basis to OEP no later than 15 days after the end of the calendar quarter.

3.4.1.1. Financial Reports:

a. Report the following data to OEP:

- Program income (interest earned, fees, etc.)
- Number of grants (interest rate buy-downs) given
- Monetary value of grants (interest rate buy-downs) given
- Dollar value and number of loans made or incentivized
- Interest rate on loans made or incentivized
- Dollar value and number of write-offs/loan losses
- Number of buildings retrofitted
- Square footage of buildings retrofitted
- Funds Leveraged
- Other requirements of the U.S. Department of Energy

b. Schedules or spreadsheets showing the amount of Program Income received, the entities from which it was received over the previous quarter, broken down by recipient, vendor, or payee, as well as funds leveraged by the program from other sources including private investment.

b. Schedules or spreadsheets showing the amount of funding that was expended in the form of loans, grants (interest rate buy-downs), energy audits, Program Delivery Costs, and any other Better Buildings expenditures over the previous quarter, broken down by loan or grant recipient, Partner, vendor, and/or payee.

c. Copies of invoices or other documentation of allowable Program Delivery Costs incurred by CDFA and/or its Partners in the previous quarter that were reimbursed from Program Income (Revolving Loan) funds.

3.4.1.2. Narrative Report:

a. A description of the previous quarter's activities, including projects funded, Partners engaged, variations from expectations outlined in the current Management Plan, losses incurred, monitoring and oversight activities and outcomes, and any other successes, issues, or problems.

b. A report on the energy savings anticipated from projects completed during the previous quarter.

c. Other requirements of the U.S. Department of Energy.

3.4.1.3. Other Required Reports:

a. By April 15 and October 15 of each year, CDFA shall provide a report regarding their oversight of Davis-Bacon and Related Acts (DBA) compliance and enforcement. The reports shall cover the periods October 1 through March 31 and April 1 through September 30, unless otherwise directed by OEP.

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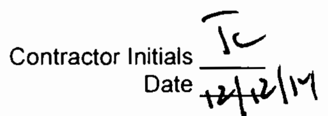

b. By October 15 of each year, CDFA shall provide a report on projects undertaken during the previous year that triggered state historic preservation Section 106 review, the historic preservation requirements imposed on such projects or the exemptions that were cited to indicate no adverse impact was anticipated by proposed project. This report shall cover the period October 1 through September 30, unless otherwise directed by OEP.

c. By January 30 of each year, CDFA shall provide a report on equipment or real property valued in excess of $5,000 per unit that was purchased with Better Buildings funds for use by CDFA and/or Partners during the previous calendar year, including a description of the equipment, the market value at time of installation, the address where such equipment was placed in use, the owner of the equipment, and the expected life of the equipment per IRS depreciation schedules. If no such equipment was purchased, CDFA shall provide a statement to that effect as its report.

3.5. Management Plans:

3.5.1. CDFA shall provide to OEP one written Management Plan breaking out the plans for each financial product identified in paragraph 1 (Residential RLF, Commercial RLF, Residential LLR and Commercial LLR). Each plan will cover a single calendar year period and may be deemed renewed for the next calendar year if both parties concur in writing no later than October 15. The first of these Management Plans shall be provided to OEP 30-days after Governor and Executive Council approval and subsequent Plans shall be provided by November 30 every year. Within 30 days of receipt, OEP will identify in writing any and all concerns, recommendations, and requests for additional information required of CDFA relating to the proposed Management Plan. Once all such requests have been satisfied, OEP will issue written approval of the Management Plan. No loans or grants shall be executed by CDFA or its Partners unless a Management Plan covering the period in which the loan or grant is to be executed has been approved in writing by OEP

Management Plans shall consist of the following:

3.5.1.1. The number and type of Qualified Residents or Qualified Businesses that are anticipated to be served in the subsequent 12 months, and the type of projects CDFA anticipates funding, and expected application deadlines.

3.5.1.2. The breakdown of funding and projects between residential, for-profit businesses and non-profit businesses.

3.5.1.3. A description of CDFA's current and anticipated Partners and the role CDFA anticipates they will play in carrying out the contract, including documentation relating to any new Partners showing their qualifications to receive federal funding (e.g., DUNS, non-inclusion on the Disbarment list, A133 or other financial audits).

3.5.1.4. A monitoring plan showing that CDFA is providing sufficient oversight of Partners, borrowers, and borrowers' contractors to identify fraud, waste and abuse. Such plans shall ensure that at least 10% of active Commercial projects receive financial and program monitoring, and that monitoring of Davis Bacon and Related Act compliance is sufficiently robust.

3.5.1.5. Any major changes anticipated to CDFA and/or its Partner's Better Buildings-related loan application, review or decision making process.

3.5.1.6 Cash flow and cost projections.

3.5.1.7 Program reporting requirements.

3.5.1.8 Any modifications to the limits defined in Exhibit B regarding caps on amounts CDFA may be reimbursed for administrative and program costs.

3.5.2. The loan program will conform to the following, unless otherwise approved by OEP:

- Administrative and Program Delivery Costs of CDFA and all its Partners shall not exceed those defined in Exhibit B.
- Each project funded will achieve a minimum of 15% in energy savings.
- Energy efficiency projects funded will have an anticipated simple payback of 10 years or less.
- Renewable energy projects funded will have an anticipated simple payback of 20 years or less.
- No loan shall exceed the project's anticipated simple payback.

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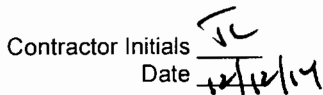

- Energy audit costs shall not be included in loan amounts.

3.6. Program Monitoring and Compliance:

3.6.1 CDFA will ensure that projects funded with Better Buildings funds, including those managed by its Partners, are carried out as contracted and in compliance with federal procurement requirements, allowable cost provisions, EECBG rules, including prohibitions of investment in certain types of activities, and American Recovery and Reinvestment Act provisions including but not be limited to Davis Bacon and Related Acts, Buy American, National Environmental Policy Act, State Historic Preservation, federal procurement rules, and that all flow down provisions are included in relevant contracts, loan and grant documentation etc.
3.6.2 U.S. DOE American Recovery and Reinvestment Act – Special Terms and Conditions (Exhibit J) and DOE Assurances in Exhibits D - I remain in force until otherwise indicated by OEP and is included as an Exhibit to this agreement for reference.
3.6.3 CDFA shall undertake regular monitoring of its Partners, borrowers, and contractors employed in making energy efficiency improvements sufficient to ensure that the opportunity for waste, fraud and abuse is minimized.
3.6.4 CDFA shall provide access to OEP, DOE and others for the purposes of monitoring and auditing all records relating to the execution of Better Buildings, and ensure that its Partners, and all borrowers, grantees, and contractors compensated with Better Buildings funds to undertake projects, shall also provide access to OEP, DOE and others upon request until Better Buildings is terminated.
3.6.5 Within 30 days of the completion of each Better Buildings-funded project, CDFA shall have delivered to OEP's office all records associated with that project pertaining to Davis Bacon and Related Acts (DBA) compliance and enforcement, including original signed weekly payroll records, copies of all DBA-related communication, original documentation of employee interviews, conformances, restitutions, etc. Such records shall be provided in an organized format that is mutually agreed upon by CDFA and OEP.

3.7. Promotion of Program

3.7.1. CDFA shall promote Better Buildings programs with New Hampshire residents, businesses and nonprofits. CDFA will provide OEP access to all outreach and publicity products.

4. TERMINATION

4.1 Conditions of Continuation and No-Default Termination

4.1.1. If this agreement is not extended, modified or terminated as of the Completion Date identified in Form P-37 Section 1.7, CDFA shall continue to administer Better Buildings according to the terms of this contract and any amendments hereto that have been duly authorized by both parties and, if required, by the NH Governor and Executive Council until termination of Better Buildings.
4.1.2. The Terms of Default/Remedies described in the P37 Section 8 shall apply to this contract.
4.1.3. CDFA may terminate the program with just cause by sending by certified mail to OEP a Termination Letter describing the reasons for termination and identifying a Termination Date not less than 90 days subsequent to the date of the Termination Letter. As of the Termination Date, CDFA and its Partners shall return to OEP all funds remaining in Better Buildings, and assign all Better Buildings loan repayments, including principal and interest, to OEP or its designee, unless otherwise agreed to in writing by OEP and CDFA.
4.1.4. If this agreement is terminated in accordance with paragraphs 2.6 or 3.5.1 above, or by the mutual agreement of the two parties, as of the Termination Date, OEP is entitled to collect from CDFA all remaining funds within Better Buildings. OEP is also entitled to require that on or subsequent to the Termination Date, CDFA and its Partners assign all Better Buildings loan repayments, including principal and interest, to OEP, or to some other designee named by OEP in the Termination Letter.

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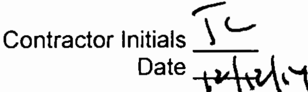

Exhibit B – Costs: Method and Terms of Reimbursement
American Recovery and Reinvestment Act – Energy Efficiency and Conservation Block Grant

1. COSTS; REIMBURSEMENT; REVIEW BY OEP

1.1 Costs: The following terms shall apply to this agreement:

1.1.1 Administrative Costs shall mean all expenses directly or indirectly incurred by Community Development Finance Authority (CDFA) in the administration and reporting of the Financing Products (RLFs and LLRs) as determined by the Office of Energy and Planning (OEP) to be eligible and allowable for reimbursement in accordance with cost standards set forth in 2 CFR 200 Uniform Administrative Requirements, Cost Principles, and Requirements of Federal Awards as revised from time to time. Administrative costs may include but are not limited to collecting loan payments, distributing funds as directed by OEP, program marketing and website, and preparing and providing reports on the fund balances to OEP.

1.1.2 Commercial Program Delivery Costs: Commercial program costs incurred by CDFA and its Partners in the course of managing the loans and incentives provided under the Better Buildings commercial financing program (Commercial RLF), which include but are not limited to, personnel costs related to underwriting, project management and monitoring, financial audits, travel, verification and compliance with all federal, state, and local laws, rules, and regulations and this contract, and indirect costs based on a federally approved indirect cost rate to be provided to OEP annually for CDFA and its Partners. For those Partners that do not have a federally approved indirect cost rate, CDFA shall provide to OEP for its approval on an annual basis the methodology by which such indirect costs will be charged for that Partner. These Costs should be built into the loan or otherwise paid by the borrower.

1.1.3 Reimbursement of Commercial Program Delivery and Administrative Costs: Subject to the terms and conditions of this agreement and the approved Management Plan, CDFA may monthly reimburse Administrative and Commercial Program Delivery Costs; however, in no event shall the total of all reimbursements pursuant to this Agreement exceed the limits of the Commercial Revolving Loan Fund as set out in Paragraphs 5.1 and 5.2 of this Exhibit, and provided further that all Costs shall have been incurred prior to the Completion Date as noted in Paragraph 2.6 of Exhibit A- Scope of Services.

1.1.4 Review by OEP; Disallowance of Costs: At any time during the performance of the Program and Project Activities, and upon receipt of the quarterly reports or Audited Financial Report, OEP may review all Administrative and Program Costs incurred by CDFA and all disbursements made to date. At any time during the Agreement period, OEP may review all costs to insure compliance with federal regulations. Upon such review, OEP shall disallow any items of expense which are not determined to be allowable or are determined to be in excess of actual expenditures, and shall, by written notice specifying the disallowed expenditures, inform CDFA of any such disallowance. If OEP disallows costs for which reimbursement has not yet been made, it shall refuse reimbursement of such costs. If reimbursement has been made with respect to costs

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which are subsequently disallowed, the amount of disallowed costs must be returned to the appropriate revolving loan fund under this Agreement.

2. METHOD AND TERMS OF DISBURSEMENT FOR ALLOWABLE COSTS

2.1 When Funds May Be Disbursed: CDFA shall not disburse funds from the Financial Products to its Partners or to CDFA for any reason until such time as an approved Management Plan is fully executed.

2.2 Disbursement of funds by CDFA does not constitute acceptance of any item as an eligible cost.

3. REQUIRED SUPPORTING DOCUMENTATION FOR DISBURSEMENT OF RLF FUNDS

3.1 Disbursement requests for all Administrative and Commercial Program Delivery Costs shall be accompanied by proper supporting documentation in the amount of each requested disbursement. Documentation may include invoices for supplies, equipment, services, contractual services, and, where applicable, a report of salaries paid.

4. LIMITATIONS ON USE OF FUNDS

4.1 Revolving loan funds are to be used in a manner consistent with the US DOE Recovery Act: EECBG-New Hampshire Beacon Community Project, Special Terms and Conditions (Attachment I).

4.2 Revolving loan funds (Residential and Commercial RLF, and Residential and Commercial LLR) may not, without advance written approval by OEP, be obligated or disbursed prior to the Management Plan Approval Date or subsequent to the Completion Date.

5. ADMINISTRATIVE AND PROGRAM DELIVERY COST RESTRICTIONS

5.1 Commercial RLF: Annually, Administrative Costs incurred by CDFA (as defined in 1.1.1) may not exceed 2% of the value of the Commercial RLF Financial Product on September 30th of previous calendar year.

5.2 Commercial RLF: Annually, Commercial Program Delivery Costs incurred by CDFA (as defined in 1.1.2) may not exceed the total amount of any fees and interest earned. Fees are capped at no more than 10% of a new Qualified Business loan amount.

5.3 Residential RLF: Annually, no more than 0.25% of the value of Residential RLF Financial Product on September 30th of previous calendar year shall be used annually by CDFA and its Partners to pay for Administrative Costs in support of the Residential Revolving Loan Fund.

5.4 Residential and Commercial LLR: Loan Loss Reserves are held in escrow at Partner banks and credit unions; therefore, no disbursements may be taken against these Financial Products.

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6. PERFORMANCE OF SERVICES PRIOR TO EFFECTIVE DATE

6.1 Any Activities performed by CDFA prior to the Effective Date of this agreement and prior to OEP's approval of the Management Plan shall be performed at the sole risk of CDFA and will not be reimbursed from the RLF without their prior approval from OEP.

7. REVOLVING LOAN FUND AND LOAN LOSS RESERVE ACCOUNTS

7.1 All program funding and income earned, including loan repayments, interest and fees, during the term of this Agreement shall be reinvested into the appropriate Revolving Loan Funds (RLF) or Loan Loss Reserve (LLR) accounts.

7.2 When funds become available in a Financial Product (RLF or LLR), CDFA shall use those funds to further the goals of the US DOE Recovery Act: EECBG- New Hampshire Beacon Community Project, Special Terms and Conditions (Attachment I) and the Management Plan.

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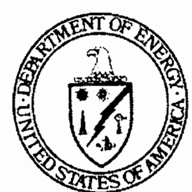
Date 12/12/14

New Hampshire Office of Energy and Planning

Exhibit C

EECBG Program Notice 09-002D
Guidance for Energy Efficiency and Conservation Block Grantees on Financing Programs
by U.S. Department of Energy
Dated (revised) October 17, 2012



Department of Energy
Washington, DC 20585

EECBG PROGRAM NOTICE 09-002D
EFFECTIVE DATE (Revised): October 17, 2012
ORIGINALLY ISSUED: December 7, 2009

SUBJECT: GUIDANCE FOR ENERGY EFFICIENCY AND CONSERVATION BLOCK GRANT GRANTEES ON FINANCING PROGRAMS.

PURPOSE

To provide guidance to Department of Energy (DOE) Energy Efficiency and Conservation Block Grant (EECBG) grantees on financing programs. This guidance supersedes EECBG Program notice 09-002C issued March 14, 2011.

SCOPE

The provisions of this guidance apply to prime recipients (i.e., States, units of local government, and Indian tribes) named in a Notification of Grant Award as the recipients of financial assistance under the DOE EECBG Program.

LEGAL AUTHORITY

Title V, Subtitle E of the Energy Independence and Security Act of 2007, as amended (42 U.S.C. § 17151 et seq.), authorizes DOE to administer the EECBG program. All grant awards made under this program shall comply with applicable law including the Recovery Act (Pub. L. No. 111-5) and other authorities applicable to this program.

GUIDANCE

This guidance pertains to the use of funds for financing programs (i.e., revolving loan fund (RLF), loan loss reserve (LLR), interest-rate buy down (IRB) and third party loan insurance). This document provides guidance on the eligible use of EECBG funds for financing programs, including guidance on issues specific to uses of funds that allow for a grantee to rely on an initial amount of funding to provide support periodically for eligible projects on an on-going basis (e.g., RLF and LLR).

Eligibility of Revolving Loan Funds

A RLF is an eligible use of funds under the EECBG Program to the extent that the activities supported by the loans are eligible activities under the program. EECBG grantees must comply with applicable laws regarding RLFs. 42 U.S.C. § 17155 (b)(3)(B) mandates a limitation on the use of funds for the establishment (*i.e.,* the capitalization) of RLFs by formula-eligible units of local governments and formula-eligible tribes equal to the greater of 20 percent of the grantee's allocation or $250,000. Funds used for administrative costs to set up a RLF are not subject to this restriction, but are subject to the general limitations established by statute on administrative costs.

Leveraging Funds under EECBG: Purpose and Type of Leveraging under EECBG
Grantee arrangements for leveraging additional public and private sector funds, including rebates, grants, and other incentives, must be arranged to ensure that Federal funds go to support eligible activities listed in 42 U.S.C. § 17154(3)-(13). The leveraging of funds may be accomplished through mechanisms such as partnerships with third party lenders, co-lending, third party administration of loans, and LLRs.

Loan Loss Reserves under EECBG
EECBG funds may be used for a LLR to support loans made with private and public funds and to support a sale of loans made by a grantee or third party lenders into a secondary market, subject to the following conditions. In order to ensure that a use of EECBG funds to leverage additional public and private sector funds furthers the stated purposes of the EECBG Program, the activities supported by the leveraged funds are limited to those activities specifically listed as eligible activities in the EECBG statute. Additionally, a grantee must ensure that the following conditions are met:

a) a grantee shall have the right to review and monitor loans provided by third party lenders to ensure that loans are being made to support eligible activities listed in 42 U.S.C. § 17154(3)-(13) and comply with conditions of Recovery Act funds (e.g., Buy American, and the National Environmental Policy Act (NEPA) where applicable;
b) a grantee establishing a LLR has no legal or financial obligation beyond the funds committed to the reserve and is not subject to further recourse in the event losses exceed the amount of the reserve;
c) any EECBG funds used to establish a LLR not used in connection with loan losses paid to third party lenders or secondary market investors must be used by or at the direction of the grantee and for an eligible use under the EECBG Program, including capitalization of a RLF; and
d) under no circumstances shall EECBG funds be released to a third party lender or secondary market investor for any purpose not pertaining to LLRs.

A grantee cannot use more than 50% of their EECBG funds for LLRs.

Interest Rate Buy-Downs
EECBG funds may be used for interest rate buy-downs subject to the conditions identified in this section. An interest rate buy-down is when one party (*e.g.*, grantee) provides a lump-sum payment based on the net present value of the difference between a target return to the lender or loan investor and the borrower's interest rate. This has two primary purposes: (1) increase project affordability and demand by reducing monthly payments; and (2) maintaining or increasing lender / investor interest in making loans by yielding higher returns.

In order to ensure that a use of EECBG funds for interest rate buy-downs furthers the stated purposes of EECBG, the loans supported by the interest rate buy-downs must be for the purchase and installation of energy efficiency and renewable energy measures consistent with the EECBG statute.

Third Party Loan Insurance
EECBG funds may be used for the purchase of third party loan insurance subject to the conditions identified in this section. Third party loan insurance is a financial arrangement whereby a third party bears some portion (or all) of a loss on a specific portfolio. This typically takes the form of a lender or investor purchasing an insurance policy from a third party against losses on a portfolio of loans up to a fixed percentage (the stop loss) of the sum of all the original loan amounts. The maximum insurance payout is determined by the value of the portfolio and not the value of individual loans.

In order to ensure that a use of EECBG funds for third party loan insurance furthers the stated purposes of EECBG, the loans supported by the third party loan insurance must be for the purchase and installation of energy efficiency and renewable energy measures consistent with the EECBG statute.

Obligation, Drawing Down and Expenditure of Funds
All EECBG Recovery Act funds must be expended by the project period end date specified in the award agreement terms and conditions.

Revolving loan funds
Obligation
Program monies advanced for a RLF are considered obligated by the grantee once they have been used to capitalize a RLF. A RLF may be capitalized in any of the following circumstances:

a) Receipt of a loan application from potential borrowers;
b) State or local requirements (regulatory, statutory, or constitutional) dictate that funds be available in advance;
c) The distribution account is operated by a third party; or
d) If a grantee establishes and operates a RLF, funds would be considered obligated by the grantee upon submitting a letter to the Project Officer and receiving a confirmation response from the Project Officer. The letter must: (1) provide the strategy for the RLF and (2) identify the scope and size of the loan.

Draw Down
For grantees receiving payments through the Department of the Treasury's Automated Standard Application for Payments (ASAP) system, funds may be drawn down at the time funds are obligated to the RLF. If a grantee required draw down under requirements "b" or "c" listed above, the grantee should document the relevant requirement and provide that documentation to their Project Officer.

For grantees receiving payments by submission of SF-270 – Request for Reimbursement or Advance, the SF-270 may be submitted at the time funds are obligated to the RLF. The SF-270 should include all documentation required for "b" or "c" above.

Expenditure
Self-administered:
Funds are considered fully expended (outlaid) when the RLF has loaned to specific borrowers for an amount equal to or greater than the EECBG funds that initially capitalized the fund. The value of loans issued in any reporting quarter is to be reported as expenditures (outlays) for that quarter.

Third party- administered:
For revolving loan funds administered by a third party, grantee funds are considered expended (outlaid) when the funds have been transferred to the third party for operation of the RLF. Funds transferred to a third party administrator in any reporting quarter are to be reported as expenditures (outlays) for that quarter.

If a RLF is administered by the grantee, all funds *must*:

- Be loaned out (initial round of funding) within the timeframe specified for the expenditure of funds set forth in the terms and conditions of the award agreement;
- Be converted for use to an approved program activity after submitting and finalizing an amendment through the DOE Project Officer and Contracting Officer; or
- Be returned to the Federal government.

If a RLF is administered by a third party (subgrantee or vendor), all funds *should*:

- Be loaned to specific borrowers (initial round of funding) within the timeframe specified for the expenditure of funds set forth in the terms and conditions of the award agreement;
- Be converted for use of approved program activities after submitting and finalizing an amendment through the DOE Project Officer and Contracting Officer; or
- Be returned to the Federal government.

Regardless of whether a RLF is administered by a grantee, subgrantee, or vendor, if the RLF does not loan out funds for eligible activities under the program, DOE may take enforcement action against the grantee and/or subgrantee (subject to the flow down provisions of the subagreement) for noncompliance with the terms of the award agreement and disallow all or part of the cost of the activity or action not in compliance, or invoke other allowable remedies against the grantee/or subgrantee (subject to the flow down provisions of the subagreement). *See* 10 CFR 600.243.

Loan loss reserves
Obligation
LLR funds are considered obligated when they are committed as a credit enhancement to support a loan or portfolio of qualifying loans under the EECBG guidelines.

For LLRs supporting a new or existing Recovery Act or non-Recovery Act funded financing program operated by the grantee, LLR funds are considered obligated by sending a letter to the Project Officer indicating the establishment of the loan loss reserve.

For LLRs supporting third party loans, LLR funds are considered obligated when the grantee enters into a signed agreement with the third party.

Draw Down

For grantees receiving payments through the Department of the Treasury's Automated Standard Application for Payments (ASAP) system, funds may be drawn down at the time funds are obligated to the LLR.

For grantees receiving payments by submission of SF-270 – Request for Reimbursement or Advance, the SF-270 may be submitted at the time funds are obligated to the LLR. The SF-270 should include all associated obligation documentation (e.g., letter to the Project Officer or copy of the signed third party agreement).

Expenditure

Self-administered: LLR funds are considered expended after they have met the above requirements for obligation, the grantee has drawn funds down from the ASAP system to fund the loan loss reserve account and committed them to support (a) individual loans; or (b) a portfolio of loans that a third party commits to issue. The value of funds committed to support loans in any reporting quarter is to be reported as expenditures (outlays) for that quarter.

Third party-administered: For LLR funds operated by a third party, the grantee's funds are considered expended when the funds have been transferred to the third party for operation of the fund. The value of funds transferred to the third party for operation of the LLR in any reporting quarter is to be reported as expenditures (outlays) for that quarter.

<u>Interest rate buy-downs and third party loan insurance</u>

Obligation

Funds used for an interest rate buy-down or third party loan insurance are considered obligated by the grantee once the funds have been committed to an interest rate buy-down or third party loan insurance, in support of a loan or loan program. These funds may be committed in any of the following ways:

a) Receipt of a loan application from potential borrowers;
b) Where state or local requirements (regulatory, statutory or constitutional) dictate that funds be available in advance;
c) When the grantee enters into a signed agreement with a third party to support an ongoing loan program with interest rate buy-downs or third party loan insurance; or
d) The grantee has entered into an agreement with a third party to operate the distribution account.

Draw Down
For grantees receiving payments through the Department of the Treasury's Automated Standard Application for Payments (ASAP) system, funds may be drawn down at the time funds are obligated to the IRB or third party loan insurance. If a grantee required draw down under requirements "b" or "c" listed above, the grantee should document the relevant requirement and provide that documentation to their Project Officer.

For grantees receiving payments by submission of SF-270 – Request for Reimbursement or Advance, the SF-270 may be submitted at the time funds are obligated to the RLF. The SF-270 should include all documentation required for "b" or "c" above.

Expenditure
Interest rate buy-downs and third party loan insurance are considered expended after they have met the above requirements for obligation and the grantee has drawn funds down from the ASAP system to fund the buy-down or loan insurance account. Additional information regarding the character of interest rate buy-downs can be found in EECBG Program Notice 12-001,"Guidance for Energy Efficiency and Conservation Block Grant Grantees on Interest Rate Buy Down Programs" issued June 4, 2012.[1] This guidance (09-002D) does not supersede that guidance, and incorporates it as a reference.

Loan Defaults
Grantees are <u>not</u> required by DOE to replenish or replace any amounts which were lost to loan default. Loans involve risk by their very nature, so loss due to default of a borrower is an anticipated and allowable cost under an EECBG grant. Grantees should utilize prudent lending practices to minimize the risk of defaults.

"Close Out" of Financing Programs
Grantees may end or reduce funding for a RLF program, LLR program, or other eligible financing program at any time as long as any remaining funds are used by the grantee for an eligible purpose after submitting and finalizing an amendment through the Contracting Officer. (An amendment is only required if the grant is open at the time the grantee ends or reduces the funding for a RLF, LLR or other eligible financing program.) If the funds are not used for an eligible purpose, the funds must be returned to the Federal government.

<u>Interest Income from Advances</u>
States
Any interest earned on funds which have been drawn down but not expended (outlaid) by a State grantee is subject to the terms and conditions of its grant. *See* 31 CFR 205.15 and 205.25; 10 CFR 600.225(g). This interest earned may be rolled back into the RLF or LLR account or used for another approved, eligible activity. If such interest is not rolled back into the RLF or LLR, or used for another approved eligible activity, it must be returned to the Federal government.

[1] http://www1.eere.energy.gov/wip/pdfs/eecbg_06-04-12.pdf

Units of Local Government and Tribes
Any interest earned on funds which have been drawn down but not yet expended (outlaid) by an eligible unit of local government or Indian tribe is subject to 10 CFR 600.221 (i)[2], which requires interest re-payment on the "advance" funds to be paid quarterly to DOE (with the exception of up to $100 per year for administrative costs) based upon the interest rate specified by the Department of Treasury's Financial Management Service (http://www.fms.treas.gov/cmia/interest-10.html). However, once funds are loaned out, any interest earned is considered program income and is subject to the terms and conditions of the grant, as may be applicable. *See* 10 CFR 600.225(g).

Program Income
All program income (including interest earned) paid to grantees is subject to the terms and conditions of the grant. See 10 CFR 600.225 (g).

Administrative expenses
Under the EECBG Program, of the amounts provided under the EECBG program an eligible unit of local government or Indian tribe may use "an amount equal to the greater of 10% and $75,000" for administrative expenses, excluding the cost of meeting reporting requirements (42 USC 17155 (b)(3)(A)) "A State may not use more than ten (10) percent of amounts provided under the program for administrative expenses" (42 USC 17155 (c)(4)).

The cap on the amount of funds that can be used for administrative expenses applies to the funds that the grantee received under the EECBG program, which for the purpose of the cap include principal repayments under an RLF. The cap does not apply to program income, including interest paid by borrowers under a RLF.

More information on the use of administrative expenses is available in EECBG Program Notice 11-002 "Clarification of Ten Percent Limitation on Use of Funds for Administrative Expenses" issued July 28, 2011.[3]

Federal Requirements Applicable to Financing Programs
Funds used to capitalize a RLF or LLR retain their Federal character for the entire period of time that the funds are used for such purpose (i.e., at each revolution of funds). The Federal character is maintained even after the funds have been considered expended as described above. As a result, Federal requirements that apply to the funds such as program eligibility requirements, NEPA, and the National Historic Preservation Act (NHPA) would be applicable at each revolution of the RLF or when a grantee approves a third-party lender's request for coverage with LLR funds.

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[2] 10 CFR 600.221(i) states "[u]nless there are statutory provisions to the contrary, grantees and subgrantees shall promptly, but at least quarterly, remit to the Federal agency interest earned on advances. The grantee or subgrantee may keep interest amounts up to $100 per year for administrative expenses."
[3] http://www1.eere.energy.gov/wip/pdfs/eecbg_11-002.pdf

Federal requirements that apply to Recovery Act funds, such as the Davis-Bacon Act (DBA) requirements, Buy-American provision requirements, and Recovery Act reporting requirements would be applicable at each revolution of a RLF or on any residual funds from a LLR expended for an eligible activity to close out the LLR.

The grantees who administer RLFs can expedite compliance with these statutory requirements as detailed below.

National Environmental Policy Act

Interest rate buy downs and third party loan insurance

Prior to the grantee approving the use of Federal funds by a third party lender, where the funds would support an interest-rate buy down or a loan insurance policy, DOE must conduct NEPA review for the project or group of projects that will benefit from the funds. In many cases this will be impractical because the grantee (and possibly third party administrators) may not be able to identify proposed projects until well after the grantee establishes the financing program. As such, the easiest and most practical way for DOE to comply with NEPA review is to make a categorical exclusion (CX) determination for the entire financing program by using the EECBG NEPA Template. IRBs and Third Party Loan Insurance may qualify for a CX to the NEPA provisions provided that the underlying projects to be funded under the financing program fall under the EECBG NEPA Template. Grantees should consult with their Project Officer for further information.

Revolving loan funds

RLFs may qualify for a CX to the NEPA provisions provided that the underlying projects to be funded under the financing program fall under the EECBG NEPA Template. Grantees should consult with their Project Officer for further information. If the grantee uses the EECBG NEPA Template that DOE has provided to grantees to obtain CX determination under NEPA, then DOE can complete a NEPA review for the entire RLF portfolio without having to later conduct a NEPA review of individual projects.

Loan loss reserves

Recovery Act-funded LLRs can occur in three phases:

(1) DOE expends Recovery Act funds that are used to establish and capitalize a grantee's LLR account;
(2) a grantee approves an application from a third party lender requesting coverage from a LLR to support a loan or a portfolio of qualifying loans (in this case, commitment of a LLR); and
(3) a grantee draws funds from the LLR account to pay third parties for the financing of privately-funded projects, in the event of a loan default.

DOE does not need to complete a NEPA review in advance of phase (1) above. However, DOE must complete a NEPA review for any LLR activity prior to phase (2) above, at the latest.

To that end, DOE must complete a NEPA review before the grantee commits funds to cover a third party's loans. While the requirements of DBA and the Buy American provision do not apply during phase (1), such requirements apply prior to phase (2) above.

For instances in which grantees intend to use EECBG funding for LLRs supporting underlying projects that do *not* qualify for a CX determination (*e.g.*, large, commercial-scale geothermal or wind projects), DOE will typically have to complete a NEPA review for the individual proposed projects. At the time that a third party lender applies to the grantee for coverage from a LLR, the grantee must identify the project(s) that will receive the loan. DOE will then commence a NEPA review of such project(s), which will most likely result in an Environmental Assessment or Environmental Impact Statement. A grantee cannot approve third party loans for coverage under a LLR program until DOE completes a NEPA review for particular projects that benefit from the LLR. Should the grantee move forward with activities that are not authorized for Federal funding by the DOE Contracting Officer in advance of the final NEPA determination, the grantee is doing so at risk of not receiving Federal funding, and such costs may not be recognized as allowable cost share.

Even in those instances in which DOE must complete a NEPA review for individual projects that do not qualify for a CX determination, DOE may be able to expedite the NEPA review process by using a single NEPA document for multiple, similar projects. Also, if the total amount of Federal financial assistance (including Federal funding reserved for the loss on the loan) for a project is less than 10 percent of total project costs, then the grantee should consult with DOE about whether DOE will have to prepare a NEPA determination for the project.

In the case of LLRs that support projects that cannot obtain a CX determination, DOE encourages such grantees to submit a complete project description simultaneously with the third party lender application for a credit enhancement. Otherwise, DOE may condition its approval of the LLR on a NEPA review and that conditional approval may serve as an insufficient guarantee to the lender.

Categorical Exclusions

Grantees should consider restricting their financing programs to activities categorically excluded from NEPA review (*e.g.*, including this restriction in any third party LLR contracts).

For further information about the EECBG NEPA Template, please review guidance that DOE has previously issued on streamlining compliance with NEPA. That guidance and the EECBG NEPA Template itself can be found at http://www1.eere.energy.gov/wip/pdfs/nepa_program_guidance_notice_10-003.pdf and http://www1.eere.energy.gov/wip/pdfs/eecbg_recovery_act_program_guidance_10-011.pdf (Attachment B), respectively.

Further, assuming that DOE exercises no control over projects that receive loans from a RLF, DOE *may* not have to prepare a NEPA determination for a project if the total amount of Federal funding for the project is less than 10 percent of project costs.

Historic Preservation, DBA, and Buy American
DOE has worked with the Advisory Council on Historic Preservation to provide States with programmatic agreements in order to streamline compliance with the NHPA requirements. Information on the programmatic agreements can be found at http://www1.eere.energy.gov/wip/historic_preservation.html.

Individual homeowners receiving loans under a RLF program or supported by Recovery Act-funded credit enhancements (e.g., LLRs, IRBs, third party loan insurance) would not be required to comply with DBA. Grantees may wish to consider restricting their financing programs to activities for which compliance is not required under DBA.

Neither LLRs nor third party loan insurance are subject to DBA, because the funds are not being loaned/used for construction/installation work. Provided that the LLR fund is used only for the purposes of providing a fund for the third party lender in the event of default by the borrower, DBA is not applicable to the LLR fund.

Also, provided that the third party loan insurance is used only for the purpose of providing funding to a lender or investor for the purchase of an insurance policy from a third party against losses on a portfolio of loans up to a fixed percentage (to stop loss) of the sum of all the original loan amounts, DBA is not applicable to the third party loan insurance.

LLR funds are used to protect the third party lender in the event of default. The third party lender obtains reimbursement from a LLR fund only in the event of a default by the borrower, and only after legal efforts to obtain additional repayment from the borrower have been exhausted. Loan loss reserve funds are not used for the construction alteration, maintenance or repair of a public building or public work. Therefore, the DBA and Buy American provisions of the Recovery Act do not apply to LLR funds.

DBA is applicable to IRBs, except when a IRB supports a loan under which (1) an individual is hiring a contractor to work on their personal home/building; and (2) a State or Local Government employee performs the work on a state or local government building.

The Buy American provision requirements apply to "public buildings" and "public works" and thus would not be applicable to projects performed on homes owned by individuals.

Continuing oversight of Federal funds
As noted above, generally, Federal funds used to capitalize a RLF or fund a LLR continue to maintain their Federal character in perpetuity. For such programs, the Federal character continues after expenditure and after the initial period of award.

As a result, Federal requirements that apply to the funds such as the NEPA, NHPA, DBA, Buy American provisions, and Recovery Act reporting requirements would be applicable at each revolution of the RLF, or when a grantee approves a third-party lender's request for coverage with loan loss reserve funds. To ensure that these Federal funds continue to be used in accordance with the applicable Federal requirements, DOE will maintain oversight of the funds remaining in financing programs past the period of performance stated in the grantee's award agreement.

Under the EECBG statute, grantees are required to provide an annual report on the status of development and implementation of the grantee's energy efficiency and conservation strategy, and as practicable, an assessment of the energy efficiency gains within the jurisdiction of the grantee. (42 USC 17155(b)(4) and (c)(5)). So long as a grantee continues to operate a RLF or LLR that was capitalized with Federal funds under EECBG, the grantee is required to provide an annual report on the status of its energy efficiency and conservation strategy.

Grantees are provided an opportunity to enter into no cost time extensions of the current award, limited in scope to only those RLF and LLR activities in which there remain Federal funds that were expended in a timely manner. A no cost extension would continue the reporting requirements under the award and facilitate the grantee providing information necessary for DOE oversight. The no cost time extension would not establish additional reporting requirements.

For further detail on the manner of reporting, see the most recent guidance in EECBG Program Notice Series 10-07, "DOE Reporting Requirements for the Energy Efficiency and Conservation Block Grant Program" and its appendix, which outlines the metrics grantees will be asked to report on with respect to financing programs.

Absent a no cost time extension, DOE will maintain oversight of the grantee through the audit process. Per 10 CFR 600.242(e)(1), DOE has the right of access to any pertinent books, documents, papers, or other records of the grantees or subgrantees which are pertinent to the grant, in order to make audits, examinations, excerpts and transcripts. An audit will be conducted as frequently as DOE deems necessary to ensure grantees are following all Federal requirements, including but not limited to Recovery Act requirements and statutory reporting requirements. *See* 10 CFR 600.242(e)(1).

A grantee may choose to end a RLF or LLR. A grantee may move funds out of a RLF or LLR as the funds are returned to the grantee (e.g., as loan payments are made).

If the grantee ends such a program, the funds must be used for an eligible purpose or be returned to the Federal government. After the close of the Recovery Act award period, grantees with funds remaining in financing programs will be required to report information on the program until the funds are either: (1) rolled into another eligible activity and expended; (2) fully expended through default; or (3) returned to the Federal Government.

Pursuant to Section 210(c) of OMB Circular A-133, third party lenders should generally be characterized as vendors providing financial services. As such, third party lenders (*e.g.*, commercial banks) are not required to report any information directly to DOE. Prime grantees retain reporting authority and responsibility and therefore should not delegate any reporting responsibility to third party lenders.

AnnaMaria Garcia
Program Manager
Weatherization and Intergovernmental Program
Energy Efficiency and Renewable Energy

New Hampshire Office of Energy and Planning

STANDARD EXHIBIT D

The Contractor identified in paragraph 3 in Exhibit A agrees to comply with the provisions of Sections 5151-5160 of the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, Title V, Subtitle D; 41 U.S.C. 701 et seq.), and further agrees to have the Contractor's representative, as identified in Sections 1.11 and 1.12 of the General Provisions execute the following Certification:

CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS
ALTERNATIVE I - FOR GRANTEES OTHER THAN INDIVIDUALS

US DEPARTMENT OF HEALTH AND HUMAN SERVICES - CONTRACTORS
US DEPARTMENT OF EDUCATION - CONTRACTORS
US DEPARTMENT OF AGRICULTURE – CONTRACTORS
US DEPARTMENT OF LABOR
US DEPARTMENT OF ENERGY

This certification is required by the regulations implementing Sections 5151-5160 of the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, Title V, Subtitle D; 41 U.S.C. 701 et seq.). The January 31, 1989 regulations were amended and published as Part II of the May 25, 1990 Federal Register (pages 21681-21691), and require certification by grantees (and by inference, sub-grantees and sub-contractors), prior to award, that they will maintain a drug-free workplace. Section 3017.630(c) of the regulation provides that a grantee (and by inference, sub-grantees and sub-contractors) that is a State may elect to make one certification to the Department in each federal fiscal year in lieu of certificates for each grant during the federal fiscal year covered by the certification. The certificate set out below is a material representation of fact upon which reliance is placed when the agency awards the grant. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of grants, or government wide suspension or debarment. Contractors using this form should send it to:

Director, New Hampshire Office of Energy and Planning,
107 Pleasant Street, Johnson Hall, Concord, NH 03301

(A) The grantee certifies that it will or will continue to provide a drug-free workplace by:

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

(b) Establishing an ongoing drug-free awareness program to inform employees about—

(1) The dangers of drug abuse in the workplace;
(2) The grantee's policy of maintaining a drug-free workplace;
(3) Any available drug counseling, rehabilitation, and employee assistance programs; and
(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

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

CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS
ALTERNATIVE I - FOR GRANTEES OTHER THAN INDIVIDUALS, cont'd

US DEPARTMENT OF HEALTH AND HUMAN SERVICES - CONTRACTORS
US DEPARTMENT OF EDUCATION - CONTRACTORS
US DEPARTMENT OF AGRICULTURE – CONTRACTORS
US DEPARTMENT OF LABOR
US DEPARTMENT OF ENERGY

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

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

(e) Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

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

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

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

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

Place of Performance (street address, city, county, State, zip code) (list each location)

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

Community Development Finance Authority 01/01/15-12/31/16

Contractor Name Period Covered by this Certification

TAYLOR CASWELL, EXECUTIVE DIRECTOR

Name and Title of Authorized Contractor Representative

[signature] 12/12/14

Contractor Representative Signature Date

New Hampshire Office of Energy and Planning

STANDARD EXHIBIT E

The Contractor identified in Paragraph 3 in Exhibit A agrees to comply with the provisions of Section 319 of Public Law 101-121, Government wide Guidance for New Restrictions on Lobbying, and 31 U.S.C. 1352, and further agrees to have the Contractor's representative, as identified in Sections 1.11 and 1.12 of the General Provisions execute the following Certification:

CERTIFICATION REGARDING LOBBYING

US DEPARTMENT OF HEALTH AND HUMAN SERVICES - CONTRACTORS
US DEPARTMENT OF EDUCATION - CONTRACTORS
US DEPARTMENT OF AGRICULTURE – CONTRACTORS
US DEPARTMENT OF LABOR
US DEPARTMENT OF ENERGY

Programs (indicate applicable program covered):
Community Services Block Grant
Low-Income Home Energy Assistance Program
Senior Community Services Employment Program
Weatherization Program
Energy Efficiency Conservation Block Grant
Contract Period: 01/01/15-12/31/16

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 (and by specific mention sub-grantee or sub-contractor).

(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 Federal contract, grant, loan, or cooperative agreement (and by specific mention sub-grantee or sub-contractor), the undersigned shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying, in accordance with its instructions, attached and identified as Standard Exhibit E-I.

(3) The undersigned shall require that the language of this certification be included in the award document for sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients 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 and not more than $100,000 for each such failure.

[signature] EXECUTIVE DIRECTOR
Contractor Representative Signature | Contractor's Representative Title

Community Development Finance Authority 12/12/14
Contractor Name | Date

New Hampshire Office of Energy and Planning

STANDARD EXHIBIT F

The Contractor identified in paragraph 3 in Exhibit A agrees to comply with the provisions of Executive Office of the President, Executive Order 12529 and 45 CFR Part 76 regarding Debarment, Suspension, and Other Responsibility Matters, and further agrees to have the Contractor's representative, as identified in Sections 1.11 and 1.12 of the General Provisions execute the following Certification:

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS - PRIMARY COVERED TRANSACTIONS

Instructions for Certification

(1) By signing and submitting this proposal (contract), the prospective primary participant is providing the certification set out below.
(2) The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. If necessary, the prospective participant shall submit an explanation of why it cannot provide the certification. The certification or explanation will be considered in connection with **Community Development Finance Authority** determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
(3) The certification in this clause is a material representation of fact upon which reliance was placed when **Community Development Finance Authority** determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, **Community Development Finance Authority** may terminate this transaction for cause or default.
(4) The prospective primary participant shall provide immediate written notice to the **Community Development Finance Authority** agency to whom this proposal (contract) is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
(5) 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 the rules implementing Executive Order 12549: 45 CFR Part 76. See the attached definitions.
(6) The prospective primary participant agrees by submitting this proposal (contract) that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by **Community Development Finance Authority**.
(7) The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions," provided by **Community Development Finance Authority**, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
(8) A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or involuntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List (of excluded parties).
(9) 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 under paragraph 6 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 Federal government, **Community Development Finance Authority** may terminate this transaction for cause or default.

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS - PRIMARY COVERED TRANSACTIONS, cont'd

Certification Regarding Debarment, Suspension, and Other Responsibility Matters - Primary Covered Transactions

(1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:

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

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

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

(d) have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

(2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal (contract).

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions

(To Be Supplied to Lower Tier Participants)

By signing and submitting this lower tier proposal (contract), the prospective lower tier participant, as defined in 45 CFR Part 76, certifies to the best of its knowledge and belief that it and its principals:

(a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

(b) where the prospective lower tier participant is unable to certify to any of the above, such prospective participant shall attach an explanation to this proposal (contract).

The prospective lower tier participant further agrees by submitting this proposal (contract) that it will include this clause entitled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion - Lower Tier Covered Transactions," without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

[signature]	EXECUTIVE DIRECTOR
Contractor Representative Signature	Contractor's Representative Title
Community Development Finance Authority	12/12/14
Contractor Name	Date

New Hampshire Office of Energy and Planning

STANDARD EXHIBIT G

CERTIFICATION REGARDING THE AMERICANS WITH DISABILITIES ACT COMPLIANCE

The Contractor identified in paragraph 3 in Exhibit A agrees by signature of the Contractor's representative as identified in Sections 1.11 and 1.12 of the General Provisions, to execute the following certification:

By signing and submitting this proposal (contract) the Contractor agrees to make reasonable efforts to comply with all applicable provisions of the Americans with Disabilities Act of 1990.

[signature] EXECUTIVE DIRECTOR

Contractor Representative Signature | Contractor's Representative Title

Community Development Finance Authority 12/12/14

Contractor Name | Date

New Hampshire Office of Energy and Planning

STANDARD EXHIBIT H

CERTIFICATION
Public Law 103-227, Part C
ENVIRONMENTAL TOBACCO SMOKE

Public Law 103227, Part C Environmental Tobacco Smoke, also known as the Pro Children Act of 1994, requires that smoking not be permitted in any portion of any indoor facility routinely owned or leased or contracted for by an entity and used routinely or regularly for provision of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee.

The law does not apply to children's services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug or alcohol treatment.

Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to $1000 per day and/or the imposition of an administrative compliance order on the responsible entity.

By signing and submitting this application the applicant/grantee certifies that it will comply with the requirements of the Act.

The applicant/grantee further agrees that it will require the language of this certification be included in any subawards which contain provisions for the children's services and that all subgrantees shall certify accordingly.

[signature] | EXECUTIVE DIRECTOR
Contractor Representative Signature | Contractor's Representative Title

Community Development Finance Authority | 12/12/14
Contractor Name | Date

New Hampshire Office of Energy and Planning

EXHIBIT I

TITLE X
PUBLIC HEALTH
Chapter 147-A
Hazardous Waste Management

The Contractor identified in paragraph 3 in Exhibit A agrees by signature of the Contractor's representative as identified in Sections 1.11 and 1.12 of the General Provisions, to execute the following certification:

By signing and submitting this proposal (contract) the Contractor agrees to comply with all applicable provisions of Title X Public Health Chapter 147-A: Hazardous Waste Management.

Contractor Representative Signature

EXECUTIVE DIRECTOR
Contractor's Representative Title

Community Development Finance Authority
Contractor Name

12/12/14
Date

New Hampshire Office of Energy and Planning

Exhibit J

U.S. Department of Energy American Reinvestment and Recovery Act
EECBG – New Hampshire Better Buildings Program
Special Terms and Conditions
Award Number: DE-EE0003576, CFDA Number: 81.128

SPECIAL TERMS AND CONDITIONS

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1. 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.

2. AWARD AGREEMENT TERMS AND CONDITIONS

This award/agreement consists of the Assistance Agreement, plus the following:

a. Special Terms and Conditions.
b. Attachments:

Attachment Number	Title
1.	Intellectual Property Provisions
2.	Statement of Project Objectives
3.	Federal Assistance Reporting Checklist and Instructions
4.	Budget Pages (SF 424A)

c. DOE Assistance Regulations, 10 CFR Part 600 at http://ecfr.gpoaccess.gov.
d. Application/proposal as approved by DOE.
e. National Policy Assurances to Be Incorporated as Award Terms in effect on date of award at http://management.energy.gov/business_doe/1374.htm.

3. ELECTRONIC AUTHORIZATION OF AWARD DOCUMENTS

Acknowledgement of award documents by the Recipient's authorized representative through electronic systems used by the Department of Energy, specifically FedConnect, constitutes the Recipient's acceptance of the terms and conditions of the award. Acknowledgement via FedConnect by the Recipient's authorized representative constitutes the Recipient's electronic signature.

4. PAYMENT PROCEDURES - ADVANCES THROUGH THE AUTOMATED STANDARD APPLICATION FOR PAYMENTS (ASAP) SYSTEM

a. Method of Payment. Payment will be made by advances through the Department of Treasury's ASAP system.

b. Requesting Advances. Requests for advances must be made through the ASAP system. You may submit requests as frequently as required to meet your needs to disburse funds for the Federal share of project costs. If feasible, you should time each request so that you receive payment on the same day that you disperse funds for direct project costs and the proportionate share of any allowable indirect costs. If same-day transfers are not feasible, advance payments must be as close to actual disbursements as administratively feasible.

c. Adjusting payment requests for available cash. You must disburse any funds that are available from repayments to and interest earned on a revolving fund, program income, rebates, refunds, contract settlements, audit recoveries, credits, discounts, and interest earned on any of those funds before requesting additional cash payments from DOE.

d. Payments. All payments are made by electronic funds transfer to the bank account identified on the ASAP Bank Information Form that you filed with the U.S. Department of Treasury.

5. CEILING ON ADMINISTRATIVE COSTS

a. State Recipients may not use more than 10 percent of amounts provided under the program for administrative expenses (EISA Sec 545 (c)(4)).

b. Recipients are expected to manage their administrative costs. DOE will not amend an award solely to provide additional funds for changes in administrative costs. The Recipient shall not be reimbursed on this project for any final administrative costs that are in excess of the designated 10 percent administrative cost ceiling. In addition, the Recipient shall neither count costs in excess of the administrative cost ceiling as cost share, nor allocate such costs to other federally sponsored project, unless approved by the Contracting Officer.

6. LIMITATIONS ON USE OF FUNDS

a. By accepting funds under this award, you agree that none of the funds obligated on the award shall be expended, directly or indirectly, for gambling establishments, aquariums, zoos, golf courses or swimming pools.

b. Recipients may use not more than 50 percent of the amounts provided for a loan loss reserve to support loans made with private and public funds and to support a sale of loans made by a grantee or third-party lenders into a secondary market.

7. DISTRIBUTION OF SUBGRANTS

a. Each state that receives a grant under the program shall use not less than 60 percent of the amount received to provide subgrants to units of local government in the state that are not eligible for direct formula grants. In cases where a unit of local government is eligible for direct formula grant award as a result of an appeal of an initial ineligibility determination, the state shall not award a subgrant to that unit of local government under this subparagraph (Please see DOE Office of Hearings and Appeals website at http://www.oha.doe.gov/EECBG/report.asp).

b. States are required to develop a sub-granting process that expeditiously allocates funding, prevents fraudulent spending, generates robust reporting, and promotes the EECBG Program principles stated above.

8. REIMBURSABLE INDIRECT AND FRINGE BENEFIT COSTS

a. The Recipient is expected to manage their final negotiated project budgets, including their indirect costs and fringe benefit costs. DOE will not amend an award solely to provide additional funds for changes in the indirect and/or fringe benefit costs or for changes in rates used for calculating these costs. DOE recognizes that the inability to obtain full reimbursement for indirect or fringe benefit costs means the Recipient must absorb the underrecovery. Such underrecovery may be allocated as part of the Recipient's cost share.

b. If actual allowable indirect and/or fringe benefit costs are less than those budgeted and funded under the award, the Recipient may use the difference to pay additional allowable direct costs during the project period. If at the completion of the award the Government's share of total allowable costs (i.e., direct and indirect), is less than the total costs reimbursed, the Recipient must refund the difference.

9. USE OF PROGRAM INCOME

If you earn program income during the project period as a result of this award, you may add the program income to the funds committed to the award and used to further eligible project objectives.

10. 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.

11. 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.

12. 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. Additional Recovery Act Reporting Requirements are found in the Provision below labeled: "REPORTING AND REGISTRATION REQUIREMENTS UNDER SECTION 1512 OF THE RECOVERY ACT."

13. 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 DOE 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 [National Nuclear Security Administration] [add name(s) of other agencies, if applicable] under Award Number(s) [enter the award number(s)]."

    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."

14. FEDERAL, STATE, AND MUNICIPAL REQUIREMENTS

You must obtain any required permits, ensure the safety and structural integrity of any repair, replacement, construction and/or alteration, and comply with applicable federal, state, and municipal laws, codes, and regulations for work performed under this award.

15. 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 in the Agreement Cover Page. A list of all intellectual property provisions may be found at http://www.gc.doe.gov/financial_assistance_awards.htm.

a. Questions regarding intellectual property matters should be referred to the DOE Award Administrator identified 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

b. The IP Service Provider for the Golden Field Office is Julia Moody, who may be reached at julia.moody@go.doe.gov or 303-275-4867.

16. 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.

17. NATIONAL ENVIRONMENTAL POLICY ACT (NEPA) REQUIREMENTS

You are restricted from taking any action using Federal funds, which would have an adverse effect on the environment or limit the choice of reasonable alternatives prior to DOE providing either a NEPA clearance or a final NEPA decision regarding this project.

If you move forward with activities that are not authorized for Federal funding by the DOE Contracting Officer in advance of the final NEPA decision, you are doing so at risk of not receiving Federal funding and such costs may not be recognized as allowable cost share.

You are prohibited from implementing energy efficiency improvements and renewable energy generation opportunities, including demolition, repair, replacement, installation, construction, disposal, or alteration activities until such time that you comply with the Waste Stream and Historic Preservation clauses.

If this award includes construction activities, you must submit an environmental evaluation report/evaluation notification form addressing NEPA issues prior to DOE initiating the NEPA process.

If you intend to make changes to the scope or objective of your project you are required to contact the DOE Project Officer identified in Block 15 of the Assistance Agreement before proceeding. You must receive notification of approval from the DOE Contracting Officer prior to commencing with work beyond that currently approved.

DOE has made a NEPA determination for this award. All projects under this award are bounded in compliance with the uploaded and signed Statement of Work/Template for expedited NEPA review. The projects within the scope of the Statement of Work comprise of actions to conserve energy. Any projects that fall outside the Statement of Work are conditioned pending further NEPA review. DOE has made a final NEPA Determination for this project, which is categorically excluded from further NEPA review.

18. HISTORIC PRESERVATION

Prior to the expenditure of Project funds to alter any historic structure or site, the Recipient or subrecipient shall ensure that it is compliant with 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. If applicable, the Recipient or subrecipient must contact the State Historic Preservation Officer (SHPO), and the Tribal Historic Preservation Officer (THPO) to coordinate the Section 106 review outlined in 36 CFR Part 800. In the event that a State, State SHPO and DOE enter into a Programmatic Agreement, the terms of that Programmatic Agreement shall apply to all recipient and subrecipient activities within that State. 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.

The Recipient or subrecipient certifies that it will retain sufficient documentation to demonstrate that the Recipient or subrecipient has received required approval(s) from the SHPO or THPO for the Project. Recipients or subrecipients shall avoid taking any action that results in an adverse effect to historic properties pending compliance with Section 106. The Recipient or subrecipient shall deem compliance with Section 106 of the NHPA complete only after it has received this documentation. The Recipient or subrecipient shall make this documentation available to DOE on DOE's request (for example, during a post-award audit). Recipient will be required to report annually on September 1 the disposition of all historic preservation consultations by category.

19. WASTE STREAM

The Recipient assures that it will create or obtain a waste management plan addressing waste generated by a proposed Project prior to the Project generating waste. This waste management plan will describe the Recipient's or subrecipient's plan to dispose of any sanitary or hazardous waste (e.g., construction and demolition debris, old light bulbs, lead ballasts, piping, roofing material, discarded equipment, debris, and asbestos) generated as a result of the proposed Project. The Recipient shall ensure that the Project is in compliance with all Federal, state and local regulations for waste disposal. The Recipient shall make the waste management plan and related documentation available to DOE on DOE's request (for example, during a post-award audit).

20. 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 the Agreement.

21. SUBGRANTS, SUBCONTRACTS, AND LOANS

a. The Recipient hereby warrants that it will ensure that all activities by sub-grantee(s) and loan recipients are consistent with the approved Statement of Project Objectives.

b. Upon the Recipient's selection of the sub-grantee(s) and loan recipients, the Recipient shall notify (i.e. approval not required) the DOE Project Officer with the following information for each, regardless of dollar amount:

- Name of Sub-Grantee
- DUNS Number
- Award Amount
- Statement of work including applicable activities

c. In addition to the information in paragraph b. above, for each sub-grant and loan that has an estimated cost greater than $10,000,000, the recipient must submit for approval by the Contracting Officer, a SF424A Budget Information - Nonconstruction Programs, and PMC 123.1 Cost Reasonableness Determination for Financial Assistance (available at http://www.eere-pmc.energy.gov/forms.aspx).

22. ADVANCE UNDERSTANDING CONCERNING PUBLICLY FINANCED ENERGY IMPROVEMENT PROGRAMS

The parties recognize that the Recipient may use funds under this award for Property-Assessed Clean Energy (PACE) loans, Sustainable Energy Municipal Financing, Clean Energy Assessment Districts, Energy Loan Tax Assessment Programs (ELTAPS), or any other form or derivation of Special Taxing District whereby taxing entities collect payments through increased tax assessments for energy efficiency and renewable energy building improvements made by their constituents. The Department of Energy intends to publish "Best Practices" or other guidelines pertaining to the use of funds made available to the Recipient under this award pertaining to the programs identified herein. By accepting this award, the Recipient agrees to incorporate, to the maximum extent practicable, those Best Practices and other guidelines into any such program(s) within a reasonable time after notification by DOE that the Best Practices or guidelines have been made available. The Recipient also agrees, by its acceptance of this award, to require its sub-recipients to incorporate to the maximum extent practicable the best practices and other guideline into any such program used by the sub-recipient.

23. SPECIAL PROVISIONS RELATING TO WORK FUNDED UNDER AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 (May 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 that relate 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, 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, for specific requirements of this section and prescribed language for the notices.).

G. 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 Support 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 obligated to this award are available for reimbursement of costs until 36 months after the award date.

K. Additional Funding Distribution and Assurance of Appropriate Use of Funds

Certification by Governor – For funds provided to any State or agency thereof by the American Reinvestment and Recovery Act of 2009, Pub. L. 111-5, the Governor of the State shall certify that: 1) the state will request and use funds provided by the Act; and 2) the funds will be used to create jobs and promote economic growth.

Acceptance by State Legislature -- If funds provided to any State in any division of the Act are not accepted for use by the Governor, then acceptance by the State legislature, by means of the adoption of a concurrent resolution, shall be sufficient to provide funding to such State.

Distribution -- After adoption of a State legislature's concurrent resolution, funding to the State will be for distribution to local governments, councils of government, public entities,

and public-private entities within the State either by formula or at the State's discretion.

L. Certifications

With respect to funds made available to State or local governments for infrastructure investments under the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, the Governor, mayor, or other chief executive, as appropriate, certified by acceptance of this award that the infrastructure investment has received the full review and vetting required by law and that the chief executive accepts responsibility that the infrastructure investment is an appropriate use of taxpayer dollars. Recipient shall provide an additional certification that includes a description of the investment, the estimated total cost, and the amount of covered funds to be used for posting on the Internet. A State or local agency may not receive infrastructure investment funding from funds made available by the Act unless this certification is made and posted.

24. 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 subrecipients 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.

25. 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.

*Special Note: Definitization of the Provisions entitled, "REQUIRED USE OF AMERICAN IRON, STEEL, AND MANUFACTURED GOODS – SECTION 1605 OF THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009" and "REQUIRED USE OF AMERICAN IRON, STEEL, AND MANUFACTURED GOODS (COVERED UNDER INTERNATIONAL AGREEMENTS) – SECTION 1605 OF THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009" will be done upon definition and review of final activities.

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

If the Recipient determines at any time that any construction, alteration, or repair activity on a public building or public works will be performed during the course of the project, the Recipient shall notify the Contracting Officer prior to commencing such work and the following provisions shall apply.

(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) 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 (dollars)*
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			

[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.]

[*Include all delivery costs to the construction site.]

27. 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, Chinese Taipei (Taiwan), 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);

(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; or

(4) An Agreement between Canada and the United States of America on Government Procurement country (Canada).

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 consist 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. As of January 1, 2010, this obligation shall only apply to projects with an estimated value of $7,804,000 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 (dollars)*
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	_______	_______	_______

[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.]

[*Include all delivery costs to the construction site.]

28. 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.

29. RECOVERY ACT TRANSACTIONS LISTED IN SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS AND RECIPIENT RESPONSIBILITIES FOR INFORMING SUBRECIPIENTS

(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.

30. DAVIS-BACON ACT AND CONTRACT WORKHOURS AND SAFETY STANDARD ACT

Definitions: For purposes of this provision, "Davis Bacon Act and Contract Work Hours and Safety Standards Act," the following definitions are applicable:

(1) "Award" means any grant, cooperative agreement or technology investment agreement made with Recovery Act funds by the Department of Energy (DOE) to a Recipient. Such Award must require compliance 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 Recipients (other than a unit of State or local government whose own employees perform the construction) Subrecipients, Contractors, and subcontractors.

(2) "Contractor" means an entity that enters into a Contract. For purposes of these clauses, Contractor shall include (as applicable) prime contractors, Recipients, Subrecipients, and Recipients' or Subrecipients' contractors, subcontractors, and lower-tier subcontractors. "Contractor" does not mean a unit of State or local government where construction is performed by its own employees."

(3) "Contract" means a contract executed by a Recipient, Subrecipient, prime contractor, or any tier subcontractor for construction, alteration, or repair. It may also mean (as applicable) (i) financial assistance instruments such as grants, cooperative agreements, technology investment agreements, and loans; and, (ii) Sub awards, contracts and subcontracts issued under financial assistance agreements. "Contract" does not mean a financial assistance instrument with a unit of State or local government where construction is performed by its own employees.

(4) "Contracting Officer" means the DOE official authorized to execute an Award on behalf of DOE and who is responsible for the business management and non-program aspects of the financial assistance process.

(5) "Recipient" means any entity other than an individual that receives an Award of Federal funds in the form of a grant, cooperative agreement, or technology investment agreement directly from the Federal Government 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.

(6) "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.

(7) "Subrecipient" means a non-Federal entity that expends Federal funds received from a Recipient to carry out a Federal program, but does not include an individual that is a beneficiary of such a program.

(a) Davis Bacon Act

(1) Minimum wages.

(i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), 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 hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; 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 weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in § 5.5(a)(4). 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. The wage determination (including any additional classification and wage rates conformed under paragraph (a)(1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(ii)(A) The Contracting Officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the 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 the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination;

(2) The classification is utilized in the area by the construction industry; and

(3) 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 Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the Contracting Officer agree on 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, U.S. Department of Labor, Washington, DC 20210. 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.

(C) In the event the Contractor, the laborers or mechanics to be employed in the classification or their representatives, and the Contracting Officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the Contracting Officer shall refer the questions, including the views of all interested parties and the recommendation of the Contracting Officer, to the Administrator 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.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii)(B) or (C) of this section, shall be paid to all workers performing work in the classification under this Contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the Contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the 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.

(iv) If the Contractor does not make payments to a trustee or other third person, the 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 Contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(2) Withholding. The Department of Energy or the Recipient or Subrecipient shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the Contractor under this Contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime 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 Contractor or any subcontractor the full amount of wages required by the 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 (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the Contract, the Department of Energy, Recipient, or Subrecipient, may, after written notice to the Contractor, sponsor, applicant, or owner, 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.

(3) Payrolls and basic records.

(i) Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). 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 29 CFR 5.5(a)(1)(iv) 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 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. Contractors 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.

(ii) (A) The Contractor shall submit weekly for each week in which any Contract work is performed a copy of all payrolls to the Department of Energy if the agency is a party to the Contract, but if the agency is not such a party, the Contractor will submit the payrolls to the Recipient or Subrecipient (as applicable), applicant, sponsor, or owner, as the case may be, for transmission to the Department of Energy. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that 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. The prime Contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the Department of Energy if the agency is a party to the Contract, but if the agency is not such a party, the Contractor will submit them to the Recipient or Subrecipient (as applicable), applicant, sponsor, or owner, as the case may be, for transmission to the Department of Energy, the Contractor, 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 prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the sponsoring government agency (or the Recipient or Subrecipient (as applicable), applicant, sponsor, or owner).

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the Contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the Contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under § 5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under § 5.5 (a)(3)(i) of

Regulations, 29 CFR part 5, and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the 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 Regulations, 29 CFR part 3;

(3) 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 Contract.

(C) 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 (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the Contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 3729 of title 31 of the United States Code.

(iii) The Contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the Department of Energy or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the Contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the Contractor, sponsor, applicant, or owner, 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.

(4) Apprentices and trainees—

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed 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 Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his

or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. 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 Contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the 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. Where a 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 Contractor's or subcontractor'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 journeymen hourly rate specified in the applicable wage determination. 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. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the 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.

(ii) Trainees. 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 the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. 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 on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on 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 Employment and Training Administration shall be paid not less than the applicable wage rate on 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 on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the 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.

(iii) Equal employment opportunity. The utilization of apprentices, trainees, and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended and 29 CFR part 30.

(5) Compliance with Copeland Act requirements. The Contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this Contract.

(6) Contracts and Subcontracts. The Recipient, Subrecipient, the Recipient's, and Subrecipient's contractors and subcontractor shall insert in any Contracts the clauses contained herein in(a)(1) through (10) and such other clauses as the Department of Energy may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The Recipient shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of the paragraphs in this clause.

(7) Contract termination: debarment. A breach of the Contract clauses in 29 CFR 5.5 may be grounds for termination of the Contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this Contract.

(9) Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this Contract shall not be subject to the general disputes clause of this Contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning

of this clause include disputes between the Recipient, Subrecipient, the Contractor (or any of its subcontractors), and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

(10) Certification of eligibility.

(i) By entering into this Contract, the Contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the Contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this Contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

(b) Contract Work Hours and Safety Standards Act. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

(1) Overtime requirements. No Contractor or subcontractor contracting for any part of the Contract 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.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (b)(1) of this section, the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of $10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The Department of Energy or the Recipient or Subrecipient shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or

subcontractor under any such contract or any other Federal contract with the same prime Contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.
(4) Contracts and Subcontracts. The Recipient, Subrecipient, and Recipient's and Subrecipient's contractor or subcontractor shall insert in any Contracts, the clauses set forth in paragraph (b)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The Recipient shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (b)(1) through (4) of this section.

(5) The Contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the Contract for all laborers and mechanics, including guards and watchmen, working on the Contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. The records to be maintained under this paragraph shall be made available by the Contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the Department of Energy and the Department of Labor, and the Contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

(c) Recipient Responsibilities for Davis Bacon Act

(1) On behalf of the Department of Energy (DOE), Recipient shall perform the following functions:

(i) Obtain, maintain, and monitor all Davis Bacon Act (DBA) certified payroll records submitted by the Subrecipients and Contractors at any tier under this Award;

(ii) Review all DBA certified payroll records for compliance with DBA requirements, including applicable DOL wage determinations;

(iii) Notify DOE of any non-compliance with DBA requirements by Subrecipients or Contractors at any tier, including any non-compliances identified as the result of reviews performed pursuant to paragraph (ii) above;

(iv) Address any Subrecipient and any Contractor DBA non-compliance issues; if DBA non-compliance issues cannot be resolved in a timely manner, forward complaints, summary of investigations and all relevant information to DOE;

(v) Provide DOE with detailed information regarding the resolution of any DBA non-compliance issues;

(vi) Perform services in support of DOE investigations of complaints filed regarding noncompliance by Subrecipients and Contractors with DBA requirements;

(vii) Perform audit services as necessary to ensure compliance by Subrecipients and Contractors with DBA requirements and as requested by the Contracting Officer; and

(viii) Provide copies of all records upon request by DOE or DOL in a timely manner.

(d) Rates of Wages

The prevailing wage rates determined by the Secretary of Labor can be found at http://www.wdol.gov/.

State of New Hampshire
Department of State

I, William M. Gardner, Secretary of State of the State of New Hampshire, do hereby certify that COMMUNITY DEVELOPMENT FINANCE AUTHORITY was established, and made a body corporate and politic effective July 1, 1983 under the laws of 1983 Chapter 162-L, and as provided in the repeal and reenactment of Chapter 162-L, Laws of 1991 effective June 28, 1991.

In TESTIMONY WHEREOF, I hereto set my hand and cause to be affixed the Seal of the State of New Hampshire, this 1st day of March, A.D. 2013

Wm Gardner

William M. Gardner
Secretary of State

CERTIFICATE OF VOTES

(Corporate Authority)

I, Brian Hoffman, Secretary/Treasurer of Community Development Finance Authority (hereinafter the "Corporation"), a nonprofit corporation, hereby certify that: (1) I am the duly elected and acting Secretary/Treasurer of the Corporation; (2) I maintain and have custody and am familiar with the minute books of the Corporation; (3) I am duly authorized to issue certificates with respect to the contents of such books; (4) that the Board of Directors of the Corporation have authorized, on September 9, 2014 such authority to be in force and effect until September 9, 2015.

The person(s) holding the below listed position(s) are authorized to execute and deliver on behalf of the Corporation any contract or other instrument for the sale of products and services:

(name)	(position)
Taylor Caswell	Executive Director
Thaddeus Kuchinski	Chief Financial Officer

(5) the meeting of the Board of Directors was held in accordance with New Hampshire law and the by-laws of the Corporation; and (6) said authorization has not been modified, amended or rescinded and continues in full force and effect as of the date hereof.

IN WITNESS WHEREOF, I have hereunto set my hand as the Clerk/Secretary of the corporation this 15 day of September, 2014.

Brian Hoffman
Secretary/Treasurer

STATE OF New Hampshire
COUNTY OF Merrimack

On this 15 day of September, 2014, before me, the above signed Officer personally appeared who acknowledged her/himself to be the Secretary/Treasurer of NH CDFA, a corporation and that she/he as such Secretary/Treasurer being authorized to do so, executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public/Justice of the Peace

Commission Expiration Date: July 11, 2017

THERESA UPSTILL
MY COMMISSION EXPIRES JULY 11, 2017
NOTARY PUBLIC
NEW HAMPSHIRE

NEWHAMP-03 LCLOUGH

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 5/20/2014

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
A. B. Gile, Inc.
PO Box 66
Hanover, NH 03755

RECEIVED
MAY 23 2014
CDFA

CONTACT NAME:
PHONE (A/C, No, Ext): (603) 643-4540 FAX (A/C, No): (603) 643-6382
E-MAIL ADDRESS:

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Peerless Ins Co.	24198
INSURER B :	
INSURER C :	
INSURER D :	
INSURER E :	
INSURER F :	

INSURED
New Hampshire Community
Development Finance Authority
14 Dixon Ave Suite 102
Concord, NH 03301

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY; CLAIMS-MADE; X OCCUR; GEN'L AGGREGATE LIMIT APPLIES PER: POLICY; PRO-JECT; LOC; OTHER:			CBP8159008	05/26/2014	05/26/2015	EACH OCCURRENCE	$ 1,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 250,000
							MED EXP (Any one person)	$ 5,000
							PERSONAL & ADV INJURY	$
							GENERAL AGGREGATE	$ 2,000,000
							PRODUCTS - COMP/OP AGG	$ 2,000,000
								$
A	AUTOMOBILE LIABILITY; ANY AUTO; ALL OWNED AUTOS; SCHEDULED AUTOS; X HIRED AUTOS; X NON-OWNED AUTOS			CBP8159008	05/26/2014	05/26/2015	COMBINED SINGLE LIMIT (Ea accident)	$ 1,000,000
							BODILY INJURY (Per person)	$
							BODILY INJURY (Per accident)	$
							PROPERTY DAMAGE (Per accident)	$
								$
A	X UMBRELLA LIAB; X OCCUR; EXCESS LIAB; CLAIMS-MADE; DED; X RETENTION $ 0			CU8152910	05/26/2014	05/26/2015	EACH OCCURRENCE	$ 3,000,000
							AGGREGATE	$ 3,000,000
								$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY; ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y/N: N; If yes, describe under DESCRIPTION OF OPERATIONS below	N/A		WC8284916	05/26/2014	05/26/2015	X PER STATUTE; OTH-ER	
							E.L. EACH ACCIDENT	$ 500,000
							E.L. DISEASE - EA EMPLOYEE	$ 500,000
							E.L. DISEASE - POLICY LIMIT	$ 500,000
A	Property			CBP8159008	05/26/2014	05/26/2015	Blanket Limit	3,419,220

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Workers Compensation Covered States - 3.A. Part One - NH; 3.C. Part Three - All States Except ND,OH,WA,WV,WY and States designated in Item 3.A. No Excluded Officers.

EVIDENCE OF INSURANCE

CERTIFICATE HOLDER
State of New Hampshire
Office of Energy & Planning
Attn: Wendy Gilman
107 Pleasant Street
Concord, NH 03301

CANCELLATION
SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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