

Contract No: «contractNo»

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT**

**WEATHERIZATION ASSISTANCE PROGRAM - DOE
GRANT CONTRACT**

This Contract, entered into by and between the Commonwealth of Pennsylvania (the "Commonwealth"), acting through the Department of Community and Economic Development (the "Grantor"), and

**«Grantee»
«Address1»
«City» «State» «Zip»**

(the "Grantee").

BACKGROUND:

Under the provisions of the Weatherization Assistance for Low-Income Persons Program, Public Law 94-385, Title IV, Part A (42 USC 6861-6872), the U.S. Department of Energy has been authorized to make grants to states, and

The Department of Community and Economic Development has elected to distribute the grants, in accordance with the Act, under the Weatherization Assistance Program, and

The General Assembly of the Commonwealth has appropriated funds to the Grantor to carry out the provisions of the Act.

NOW, THEREFORE, in consideration of the foregoing, and subject to the conditions contained herein, the parties hereto intending to be legally bound hereby, do covenant and agree for themselves, their respective successors and assignees as follows:

**ARTICLE I
AMOUNT OF THE CONTRACT**

Subject to the terms of this Contract, the Grantor upon issuance of a Funding Release Form will make funds appropriated available to the Grantee, subject to the condition that it shall be used by the Grantee to carry out the activities described in the application submitted by the Grantee and as approved by the Grantor (the "Project"), which application is incorporated herein by reference. In addition, this Contract shall be subject to Appendix A, Project Description; Appendix C, Additional Requirements, both of which are attached hereto and incorporated herein; and all Funding Release Forms issued by the Grantor under this Contract, which are incorporated herein by reference thereto. Examples of Funding Release Forms are attached hereto and incorporated herein as Appendix B. Prior to approval of the Grantee's application, the Grantor evaluated the

Grantee's risk of noncompliance with Federal statutes, regulations, and the terms and conditions of the subaward for purposes of determining the appropriate level of monitoring, and, if necessary, has included specific conditions under Appendix C, Additional Requirements, to address any concerns which arose during the evaluation process. (2 CFR 200.331(b) and (c)).

ARTICLE II EFFECTIVE DATES

The term of this Contract shall commence on the Effective Date (as defined below) and shall end on «EndDate», subject to the other provisions of this Contract.

The Effective Date shall be the date the fully executed Contract is sent to the Grantee. A fully executed contract is one that has been signed by the Grantee and by the Grantor and contains all approvals required by Commonwealth contracting procedures.

This Contract is not binding in any way, nor will the Commonwealth be bound, until this document has been fully executed and sent to the Grantee. Any cost incurred by the Grantee prior to the Grantee's receipt of the fully executed Contract and each fully executed Funding Release Form are incurred at the Grantee's risk.

ARTICLE III PAYMENT PROVISIONS AND FISCAL RESPONSIBILITIES

(a) The Grantor agrees to pay the Grantee for eligible project costs incurred under this Contract between «BeginDate» and «EndDate» (the "Contract Activity Period") as follows:

- (1) Upon written notification of the Grantor, the Grantee shall submit to the Grantor a Work Plan and a Budget. These items will become part of and referenced within each Funding Release Form. The Funding Release Form shall be reviewed by the Grantor and, if acceptable, approved and signed by the Grantor, the Grantor's Office of Chief Counsel and Comptroller Operations certifying the availability of funds. The Grantee's receipt of the executed Funding Release Form authorizes the Grantee to incur costs in accordance with the Funding Release Form.
- (2) Subject to the availability of state and federal funds and other terms and conditions of this Contract, the Grantee will be reimbursed based upon a determination of the Grantee's needs and in accordance with the proposed budget as set forth in each Funding Release Form.

The Grantor may pay the Grantee for eligible Project costs at intervals to be determined by the Grantor. Under no circumstances shall the Commonwealth or the Grantor be liable for any expenditure exceeding the amount stated in each Funding Release Form.

Any expenditure made by the Grantee which is not in accordance with the terms of this Contract may be disapproved and payment to the Grantee may be adjusted accordingly.

- (3) Subject to the other terms and conditions of this Contract or unless otherwise directed by the Grantor, initial payments to the Grantee to effectuate activities under

this Contract and all other payments shall be made on invoice forms and in accordance with instructions provided by the Grantor.

- (4) To the extent available, the Grantee must disburse funds available from program income (including repayments to a revolving fund), rebates, refunds, contract settlements, audit recoveries, and interest earned on such funds before requesting additional cash payments from the Grantor. (2 CFR 200.305(b)(5)).

(A) Program Income is defined as gross income earned by the Grantee that is directly generated by the Project or earned as a result of the grant award during the Contract Activity Period. (2 CFR 200.80).

(B) Program Income includes, but is not limited to, income from fees for services performed, the use or rental of real or personal property acquired pursuant to this Contract, the sale of commodities or items fabricated pursuant to this Contract, license fees and royalties on patents and copyrights, and principal and interest on loans made with funds received pursuant to this Contract. (2 CFR 200.80).

(C) Program Income does not include interest earned on advanced payments of grant funds, nor does it include rebates, credits, discounts, and interest earned on any rebates, credits or discounts, except as otherwise provided in Federal statutes, regulations or the terms and conditions of the Federal award. (2 CFR 200.80).

- (5) Pennsylvania Electronic Payment Program

(A) The Commonwealth will make payments to the Grantee through the Automated Clearing House (ACH). Within 10 days of grant award, the Grantee must submit or must have already submitted their ACH information to the Commonwealth's Central Vendor Management Unit at 717-214-0140 (FAX) or by mail to the Central Vendor Management Unit, Bureau of Financial Management, Verizon Tower – 6th Floor, 303 Walnut Street, Harrisburg, PA 17101-1830.

(B) The Grantee must submit a unique invoice number with each invoice submitted. The unique invoice number will be listed on the Commonwealth of Pennsylvania's ACH remittance advice to enable the Grantee to properly apply the Grantor's payment to the respective invoice or program.

(C) It is the responsibility of the Grantee to ensure that the ACH information contained in the Commonwealth's Central Vendor Master File is accurate and complete. Failure to maintain accurate and complete information may result in delays in payments.

(D) The Grantee may access the ACH enrollment form at www.vendorregistration.state.pa.us/cvmu/paper/forms/ACH-EFTenrollmentform.pdf.

(E) The Grantee may access the electronic addenda form at http://www.portal.state.pa.us/portal/server.pt?open=512&objID=711&PageID=228891&mode=2&contentid=http://pubcontent.state.pa.us/publishedcontent/publish/cop_g

[eneral government operations/oa/oa_portal/omd/p_and_p/management_directives/financial_management/items/310_30.html](#) by clicking on the attached pdf file and going to the last page of the pdf file.

To receive reimbursement under this Contract, the Grantee shall submit requests for payment based on the Grantee's estimate of expenditures, at intervals as determined by the Grantee to meet disbursement needs. Unless otherwise instructed by the Grantor, this estimate may not exceed the current disbursement needs of the Grantee in order that the amount of cash on hand and available to the Grantee is as close to daily needs as administratively feasible. The Grantor may, however, set a minimum payment level or amount for each request for payment.

(b) Conditions for Payment:

- (1) Grant payments under this Contract shall be conditioned upon the completion of any Special Conditions set forth in Appendix C or otherwise incorporated into this Contract.
- (2) Costs allocated to program administration shall be limited to those set forth in each Funding Release Form.
- (3) Payment by the Commonwealth and all other terms of this Contract are subject to the effect of any federal deficit reduction legislation upon the availability of funds awarded by this Contract.

(c) Project Account:

- (1) The Grantee is not required to establish and maintain separate depository accounts for funds received pursuant to this Contract. However, the Grantee must be able to account for the receipt, obligation and expenditure of funds received pursuant to this Contract through some sort of accounting system (the "Project Account"). (2 CFR 200.305(b)(7)(i)). The Grantee shall charge to the Project Account all approved costs of the Project. All such costs, including activities contributed by the Grantee or others and charged to the Project Account, shall be supported by properly executed vouchers or other records indicating in proper detail the nature and propriety of the charge.
- (2) If the Grantee receives an advance payment of funds pursuant to this Contract, the Grantee must deposit and maintain the advance payment of funds received pursuant to this Contract in insured accounts whenever possible. (2 CFR 200.305(b)(7)(ii)).

(d) Investment of Funds:

- (1) The Grantee must maintain advance payments of funds received pursuant to this Contract ("Advanced Funds") in interest-bearing accounts, unless:
 - a. The Grantee receives less than \$120,000 in Federal awards per year;

- b. The best reasonably available interest bearing account would not be expected to earn interest in excess of \$500 per year on Federal cash balances;
 - c. The depository would require an average or minimum balance so high that it would not be feasible within the expected Federal and non-Federal cash resources; or
 - d. A foreign government or banking system prohibits or precludes interest bearing accounts. (2 CFR 200.305(b)(8)).
- (2) The Grantee may retain for administrative expenses interest earned on Advanced Funds totaling up to \$500 per calendar year. Any additional interest earned on Advanced Funds must be remitted annually to the Department of Health and Human Services Payment Management System (PMS) through an electronic medium using either Automated Clearing House (ACH) network or a Fedwire Funds Service payment. (2 CFR 200.305(b)(9)).
- (e) Conditions for Repayment of Grant Funds:
- (1) Misuse or Failure to Use Funds.
 - (A) The Grantee agrees that it will use the funds granted hereunder, or as much as may be necessary, to carry out the aforesaid Project in accordance with the terms of this Contract. If after all or any part of the funds has been paid to the Grantee and the Grantee shall fail to carry out the activities, the Grantee shall repay the Grantor the funds theretofore paid.
 - (B) If the Grantee does not use all or a portion of the funds paid under the terms of this Contract for purposes of and in accordance with this Contract, the Grantee shall be liable to the Grantor for the amount of funds unused or improperly used and shall return said funds to the Grantor.
 - (C) In the event the Grantor shall be entitled to repayment of all or a portion of the funds granted herein, the repayment shall include all interest, income, accumulations and the monetary equivalent of any appreciation in value of any property (real, personal or mixed) purchased with the funds granted them. A check shall be written, payable to the Commonwealth of Pennsylvania, and forwarded to the Grantor for: (1) the principal and (2) the total of any such interest, income, accumulations or appreciation in value.
 - (2) Violation of the Prohibition of Illegal Alien Labor on Assisted Projects Act.
- In the event that the Grantee
- (i) knowingly employs, or knowingly permits any of its subcontractors to knowingly employ, the labor services of an illegal alien on activities funded in whole or in part by grants or loans issued by an executive agency of the Commonwealth of Pennsylvania; and

- (ii) the Grantee or any of its subcontractors are sentenced under Federal law for an offense involving knowing use of labor by an illegal alien on activities funded in whole or in part by grants or loans issued by an executive agency of the Commonwealth of Pennsylvania,

the Grantee shall, in accordance with instructions to be provided by the Grantor, repay all grant funds received by the Grantee from the Grantor pursuant to this Contract.

(3) Direct Payment of Federal Funds.

If the Grantee receives funds granted hereunder directly from the Federal government and those funds are required to be repaid pursuant to these provisions, those funds shall be repaid to the Federal government, unless otherwise directed by the Grantor.

(f) Federal Funding Accountability and Transparency Act Provisions.

(1) Registration and Identification Information.

(A) The Grantee must maintain current registration in the System for Award Management ("SAM") (www.sam.gov) at all times during which the Grantee has active federal awards funded pursuant to this Contract. A Dun and Bradstreet Data Universal Numbering System (DUNS) Number (www.dnb.com) is one of the requirements for registration in the Central Contractor Registration.

(B) The Grantee must provide its assigned DUNS number, and DUNS + 4 number if applicable, to the Commonwealth along with the Grantee's return of the signed Contract. The Commonwealth will not process this Contract until such time that the Grantee provides this information.

(2) Primary Location.

(A) The Grantee must provide to the Commonwealth the primary location of performance under the grant award, including the city, State, and zip+4. If performance is to occur in multiple locations, then the Grantee must list the location where the most amount of the grant award is to be expended pursuant to this Contract.

(B) The Grantee must provide this information to the Commonwealth along with the Grantee's return of the signed Contract. The Commonwealth will not process this Contract until such time that the Grantee provides this information.

- (3) Compensation of Officers.
- (A) The Grantee must provide to the Commonwealth the names and total compensation of the five most highly compensated officers of the entity if:
- (i) the entity in the preceding fiscal year received:
 - (a) 80 percent or more of its annual gross revenues in Federal awards; and
 - (b) \$25,000,000 or more in annual gross revenues from Federal awards; and
 - (ii) the public does not have access to information about the compensation of the senior executives of the entity through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986.
- (B) If the Grantee does not meet the conditions listed above, then it must specifically affirm to the Commonwealth that the requirements of this clause are inapplicable to the Grantee.
- (C) The Grantee must provide information responding to this question along with the Grantee's return of the signed Contract. The Commonwealth will not process this Contract until such time that the Grantee provides such information responding to this question.
- (4) The Grantee must resubmit this information to the Grantor each time the total amount of funds available under this Contract increases or decreases.

**ARTICLE IV
BONDING, INSURANCE AND TAX LIABILITY REQUIREMENTS**

(a) Fidelity Bonding:

Unless otherwise authorized by the Grantor, the Grantee shall procure fidelity bonding for anyone authorized to sign checks, certify vouchers and/or handle or control funds, checks, securities or property. If a check signing machine is used which is not operated under the direct supervision of the authorized signer or counter-signer, the machine operator shall be bonded in the same amount as the check-signer. The amount of the bond required shall be adequate to insure the security of all funds received under this Contract as determined by the Grantor and such bond must be maintained until the Contract is closed out by the Grantor.

(b) Hold Harmless:

The Grantee shall hold the Commonwealth harmless from and indemnify the Commonwealth against any and all claims, demands and actions based or arising out of any activities performed by the Grantee and its employees and agents under this Contract;

and shall defend any and all actions brought against the Commonwealth based upon any such claims or demands. It is understood and agreed that the Grantee's standard liability insurance policies shall protect, or shall be endorsed to protect, the Commonwealth from claims of bodily injury and/or property damage arising out of any activities performed by the Grantee or its employees or agents under this Contract, including business and non-business invitees, and their property and all other property sustaining damage as a direct or indirect result of the execution of this project when validly present on Grantee's premises whether or not actually engaged in the project at the time the claim inures. Such policies shall not include any provision limiting then existing sovereign immunity of the Commonwealth or of its agents or employees. Upon request, the Grantee shall furnish to the Grantor proof of insurance as required by this paragraph.

(c) Other Liability Requirements:

The Grantee shall provide workmen's compensation insurance where the same is required and shall accept full responsibility for the payment of premiums for workmen's compensation and social security and any other taxes or payroll deductions required by law for its employees who are performing activities specified by this Contract.

**ARTICLE V
COMPLIANCE WITH APPLICABLE STATUTES AND REGULATIONS**

All activities authorized by this Contract shall be performed in accordance with applicable statutes, regulations, conditions, directives, guidelines and such additional requirements as may be attached hereto as Appendix C or are otherwise provided by the Grantor. The Grantee acknowledges that this Contract is subject to all requirements set forth herein and further agrees that it will comply with future requirements determined by the Grantor as necessary.

(a) Compliance with Federal Statutes and Regulations:

The Grantee agrees to comply with all applicable federal statutes and regulations.

(b) Compliance with State Statutes and Regulations:

The Grantee also agrees to comply with all applicable state statutes and regulations.

(c) Nondiscrimination/Sexual Harassment Provisions:

The Grantee agrees:

- (1) In the hiring of any employee(s) for the manufacture of supplies, performance of work, or any other activity required under the grant agreement or any subgrant agreement, contract, or subcontract, the Grantee, a subgrantee, a contractor, a subcontractor, or any person acting on behalf of the Grantee shall not discriminate in violation of the *Pennsylvania Human Relations Act* (PHRA) and applicable federal laws against any citizen of this Commonwealth who is qualified and available to perform the work to which the employment relates.

- (2) The Grantee, any subgrantee, contractor or any subcontractor or any person on their behalf shall not in any manner discriminate in violation of the PHRA and applicable federal laws against or intimidate any of its employees.
- (3) The Grantee, any subgrantee, contractor or any subcontractor shall establish and maintain a written nondiscrimination and sexual harassment policy and shall inform their employees of the policy. The policy must contain a provision that sexual harassment will not be tolerated and employees who practice it will be disciplined. Posting this Nondiscrimination/Sexual Harassment Clause conspicuously in easily-accessible and well-lighted places customarily frequented by employees and at or near where the grant services are performed shall satisfy this requirement.
- (4) The Grantee, any subgrantee, contractor or any subcontractor shall not discriminate in violation of the PHRA and applicable federal laws against any subgrantee, contractor, subcontractor or supplier who is qualified to perform the work to which the grant relates.
- (5) The Grantee and each subgrantee, contractor and subcontractor represents that it is presently in compliance with and will maintain compliance with all applicable federal, state, and local laws and regulations relating to nondiscrimination and sexual harassment. The Grantee and each subgrantee, contractor and subcontractor further represents that it has filed a Standard Form 100 Employer Information Report ("EEO-1") with the U.S. Equal Employment Opportunity Commission ("EEOC") and shall file an annual EEO-1 report with the EEOC as required for employers subject to *Title VII of the Civil Rights Act of 1964*, as amended, that have 100 or more employees and employers that have federal government contracts or first-tier subcontracts and have 50 or more employees. The Grantee, any subgrantee, any contractor or any subcontractor shall, upon request and within the time periods requested by the Commonwealth, furnish all necessary employment documents and records, including EEO-1 reports, and permit access to their books, records, and accounts by the Grantor and the Bureau of Small Business Opportunities (BSBO), for the purpose of ascertaining compliance with the provisions of this Nondiscrimination/Sexual Harassment Clause. Enclosure 2 to Management Directive 215.16 Amended Page 2 of 2.
- (6) The Grantee, any subgrantee, contractor or any subcontractor shall include the provisions of this Nondiscrimination/Sexual Harassment Clause in every subgrant agreement, contract or subcontract so that those provisions applicable to subgrantees, contractors or subcontractors will be binding upon each subgrantee, contractor or subcontractor.
- (7) The Grantee's and each subgrantee's, contractor's and subcontractor's obligations pursuant to these provisions are ongoing from and after the effective date of the grant agreement through the termination date thereof. Accordingly, the Grantee and each subgrantee, contractor and subcontractor shall have an obligation to inform the Commonwealth if, at any time during

the term of the grant agreement, it becomes aware of any actions or occurrences that would result in violation of these provisions.

- (8) The Commonwealth may cancel or terminate the grant agreement and all money due or to become due under the grant agreement may be forfeited for a violation of the terms and conditions of this Nondiscrimination/Sexual Harassment Clause. In addition, the Grantor may proceed with debarment or suspension and may place the Grantee, subgrantee, contractor, or subcontractor in the Contractor Responsibility File.

(d) Compliance with the State Contractor Responsibility Program:

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

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

other agreement between the Contractor and the Commonwealth, which results in the suspension or debarment of the Contractor. Such costs shall include, but shall not be limited to, salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The Contractor shall not be responsible for investigative costs for investigations that do not result in the Contractor's suspension or debarment.

- (6) The contractor may obtain a current list of suspended and debarred Commonwealth contractors by either searching the internet at http://www.dgsweb.state.pa.us/DebarmentList_portlet/ or contacting the:

Department of General Services
Office of Chief Counsel
603 North Office Building
Harrisburg, PA 17125
Telephone No: (717) 783-6472
FAX No: (717) 787-9138

- (7) The contractor may obtain a current list of suspended and debarred Federal contractors by either searching the internet at <https://www.sam.gov> or contacting the:

SAM Customer Service:
Federal Service Desk
URL: www.fsd.gov
Hours: 8am - 8pm (Eastern Time)
US Calls: 866-606-8220
International Calls: 334-206-7828

- (e) Compliance with the Offset Provision for Commonwealth Contracts:

The Grantee agrees that the Commonwealth may set off the amount of any state tax liability or other debt of the Grantee or its subsidiaries that is owed to the Commonwealth and is not being contested on appeal, against any payments due the Grantee under this or any other Contract with the Commonwealth.

- (f) Compliance with The Americans with Disabilities Act:

Pursuant to federal regulations promulgated under the authority of The Americans With Disabilities Act, 28 C.F.R. §35.101 et seq., the Grantee understands and agrees that no individual with a disability shall, on the basis of the disability, be excluded from participation in this Contract or from activities provided for under this Contract. As a condition of accepting and executing this Contract, the Grantee agrees to comply with the "General Prohibitions Against Discrimination," 28 C.F.R. §35.130, and all other regulations promulgated under Title II of The Americans With Disabilities Act which are applicable to the benefits, services, programs and activities provided by the Commonwealth through contracts with outside contractors.

The Grantee shall be responsible for and agrees to indemnify and hold harmless the Commonwealth from all losses, damages, expenses, claims, demands, suits and actions

brought by any party against the Commonwealth as a result of the Grantee's failure to comply with the provisions of the above paragraph.

(g) Reimbursement for Travel and Per Diem:

Reimbursement to the Grantee for any travel, lodging or meals under this Contract shall be at or below federal rates. Expenses in excess of federal rates must be paid from private funding sources. Private funding sources may not include other state or federal funds. Grantee must comply with Grantor's 2011 Fiscal Directive #1 entitled *Federal Travel and Subsistence Allowance Directive*.

(h) Compliance with Anti-Pollution Regulations:

The Grantee and its subcontractors agree that in the performance of their obligations under this Contract they shall minimize pollution and shall strictly comply with all applicable environmental laws and regulations.

(i) Contractor Integrity Provisions:

It is essential that those who seek to contract with the Commonwealth of Pennsylvania ("Commonwealth") observe high standards of honesty and integrity. They must conduct themselves in a manner that fosters public confidence in the integrity of the Commonwealth contracting and procurement process.

(1) Definitions. For purposes of these Contractor Integrity Provisions, the following terms shall have the meanings found in this Section:

(A) "Affiliate" means two or more entities where:

- (i) a parent entity owns more than fifty percent of the voting stock of each of the entities; or
- (ii) a common shareholder or group of shareholders owns more than fifty percent of the voting stock of each of the entities; or
- (iii) the entities have a common proprietor or general partner.

(B) "Consent" means written permission signed by a duly authorized officer or employee of the Commonwealth, provided that where the material facts have been disclosed, in writing, by prequalification, bid, proposal, or contractual terms, the Commonwealth shall be deemed to have consented by virtue of the execution of this contract.

(C) "Contractor" means the individual or entity, that has entered into this contract with the Commonwealth.

(D) "Contractor Related Parties" means any affiliates of the Contractor and the Contractor's executive officers, Pennsylvania officers and directors, or owners of 5 percent or more interest in the Contractor.

- (E) "Financial Interest" means either:
 - (i) Ownership of more than a five percent interest in any business; or
 - (ii) Holding a position as an officer, director, trustee, partner, employee, or holding any position of management.
 - (F) "Gratuity" means tendering, giving, or providing anything of more than nominal monetary value including, but not limited to, cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind. The exceptions set forth in the Governor's Code of Conduct, Executive Order 1980-18, the 4 Pa. Code §7.153(b), shall apply.
 - (G) "Non-bid Basis" means a contract awarded or executed by the Commonwealth with Contractor without seeking bids or proposals from any other potential bidder or offeror.
- (2) In furtherance of this policy, Contractor agrees to the following:
- (A) Contractor shall maintain the highest standards of honesty and integrity during the performance of this contract and shall take no action in violation of state or federal laws or regulations or any other applicable laws or regulations, or other requirements applicable to Contractor or that govern contracting or procurement with the Commonwealth.
 - (B) Contractor shall establish and implement a written business integrity policy, which includes, at a minimum, the requirements of these provisions as they relate to the Contractor activity with the Commonwealth and Commonwealth employees and which is made known to all Contractor employees. Posting these Contractor Integrity Provisions conspicuously in easily-accessible and well-lighted places customarily frequented by employees and at or near where the contract services are performed shall satisfy this requirement.
 - (C) Contractor, its affiliates, agents, employees and anyone in privity with Contractor shall not accept, agree to give, offer, confer, or agree to confer or promise to confer, directly or indirectly, any gratuity or pecuniary benefit to any person, or to influence or attempt to influence any person in violation of any federal or state law, regulation, executive order of the Governor of Pennsylvania, statement of policy, management directive or any other published standard of the Commonwealth in connection with performance of work under this contract, except as provided in this contract.
 - (D) Contractor shall not have a financial interest in any other contractor, subcontractor, or supplier providing services, labor, or material under this contract, unless the financial interest is disclosed to the Commonwealth in writing and the Commonwealth consents to Contractor's financial interest prior to Commonwealth execution of the contract. Contractor shall disclose

the financial interest to the Commonwealth at the time of bid or proposal submission, or if no bids or proposals are solicited, no later than Contractor's submission of the contract signed by Contractor.

- (E) Contractor certifies to the best of its knowledge and belief that within the last five (5) years Contractor or Contractor Related Parties have not:
 - (i) been indicted or convicted of a crime involving moral turpitude or business honesty or integrity in any jurisdiction;
 - (ii) been suspended, debarred or otherwise disqualified from entering into any contract with any governmental agency;
 - (iii) had any business license or professional license suspended or revoked;
 - (iv) had any sanction or finding of fact imposed as a result of a judicial or administrative proceeding related to fraud, extortion, bribery, bid rigging, embezzlement, misrepresentation or anti-trust; and
 - (v) been, and is not currently, the subject of a criminal investigation by any federal, state or local prosecuting or investigative agency and/or civil anti-trust investigation by any federal, state or local prosecuting or investigative agency.

If Contractor cannot so certify to the above, then it must submit along with its bid, proposal or contract a written explanation of why such certification cannot be made and the Commonwealth will determine whether a contract may be entered into with the Contractor. The Contractor's obligation pursuant to this certification is ongoing from and after the effective date of the contract through the termination date thereof. Accordingly, the Contractor shall have an obligation to immediately notify the Commonwealth in writing if at any time during the term of the contract if becomes aware of any event which would cause the Contractor's certification or explanation to change. Contractor acknowledges that the Commonwealth may, in its sole discretion, terminate the contract for cause if it learns that any of the certifications made herein are currently false due to intervening factual circumstances or were false or should have been known to be false when entering into the contract.

- (F) Contractor shall comply with the requirements of the Lobbying Disclosure Act (65 Pa.C.S. §13A01 et seq.) regardless of the method of award. If this contract was awarded on a Non-bid Basis, Contractor must also comply with the requirements of the Section 1641 of the Pennsylvania Election Code (25 P.S. §3260a).
- (G) When Contractor has reason to believe that any breach of ethical standards as set forth in law, the Governor's Code of Conduct, or these Contractor

Integrity Provisions has occurred or may occur, including but not limited to contact by a Commonwealth officer or employee which, if acted upon, would violate such ethical standards, Contractor shall immediately notify the Commonwealth contracting officer or the Office of the State Inspector General in writing.

- (H) Contractor, by submission of its bid or proposal and/or execution of this contract and by the submission of any bills, invoices or requests for payment pursuant to the contract, certifies and represents that it has not violated any of these Contractor Integrity Provisions in connection with the submission of the bid or proposal, during any contract negotiations or during the term of the contract, to include any extensions thereof. Contractor shall immediately notify the Commonwealth in writing of any actions for occurrences that would result in a violation of these Contractor Integrity Provisions. Contractor agrees to reimburse the Commonwealth for the reasonable costs of investigation incurred by the Office of the State Inspector General for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the Commonwealth that results in the suspension or debarment of the Contractor. Contractor shall not be responsible for investigative costs for investigations that do not result in the Contractor's suspension or debarment.
- (I) Contractor shall cooperate with the Office of the State Inspector General in its investigation of any alleged Commonwealth agency or employee breach of ethical standards and any alleged Contractor non-compliance with these Contractor Integrity Provisions. Contractor agrees to make identified Contractor employees available for interviews at reasonable times and places. Contractor, upon the inquiry or request of an Inspector General, shall provide, or if appropriate, make promptly available for inspection or copying, any information of any type or form deemed relevant by the Office of the State Inspector General to Contractor's integrity and compliance with these provisions. Such information may include, but shall not be limited to, Contractor's business or financial records, documents or files of any type or form that refer to or concern this contract. Contractor shall incorporate this paragraph in any agreement, contract or subcontract it enters into in the course of the performance of this contract/agreement solely for the purpose of obtaining subcontractor compliance with this provision. The incorporation of this provision in a subcontract shall not create privity of contract between the Commonwealth and any such subcontractor, and no third party beneficiaries shall be created thereby.
- (J) For violation of any of these Contractor Integrity Provisions, the Commonwealth may terminate this and any other contract with Contractor, claim liquidated damages in an amount equal to the value of anything received in breach of these Provisions, claim damages for all additional costs and expenses incurred in obtaining another contractor to complete performance under this contract, and debar and suspend Contractor from doing business with the Commonwealth. These rights and remedies are cumulative, and the use or non-use of any one shall not preclude the use of

all or any other. These rights and remedies are in addition to those the Commonwealth may have under law, statute, regulation, or otherwise.

(j) Compliance with the Prohibition of Illegal Alien Labor on Assisted Projects Act.

Pursuant to the Act of May 11, 2006 (P.L. 173, No. 43), known as the Prohibition of Illegal Alien Labor on Assisted Projects Act, the Grantee shall not knowingly employ, or knowingly permit any of its subcontractors to knowingly employ, the labor services of an illegal alien on activities funded in whole or in part by a grant or loan issued by an executive agency of the Commonwealth of Pennsylvania.

In the event that the Grantee

- (i) knowingly employs, or knowingly permits any of its subcontractors to knowingly employ, the labor services of an illegal alien on activities funded in whole or in part by grants or loans issued by an executive agency of the Commonwealth of Pennsylvania; and
- (ii) the Grantee or any of its subcontractors are sentenced under Federal law for an offense involving knowing use of labor by an illegal alien on activities funded in whole or in part by grants or loans issued by an executive agency of the Commonwealth of Pennsylvania,

the Grantee shall:

- (i) repay to the Grantor all grant funds received by the Grantee from the Grantor pursuant to this Contract, and
- (ii) be ineligible to apply for any Commonwealth grant or loan for a period of two years.

(k) Right to Know Law Provisions

- (1) The Grantee or Subgrantee understands that the Grant Agreement and records related to or arising out of the Grant Agreement are subject to requests made pursuant to the Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101-3104, (“RTKL”). For the purpose of these provisions, the term “the Commonwealth” shall refer to the Department of Community and Economic Development.
- (2) If the Commonwealth needs the Grantee’s or Subgrantee’s assistance in any matter arising out of the RTKL related to this Grant Agreement, it shall notify the Grantee or Subgrantee using the legal contact information provided in the Grant Agreement. The Grantee or Subgrantee, at any time, may designate a different contact for such purpose upon reasonable prior written notice to the Commonwealth.
- (3) Upon written notification from the Commonwealth that it requires Grantee’s or Subgrantee’s assistance in responding to a request under the RTKL for information related to this Grant Agreement that may be in Grantee’s or Subgrantee’s possession, constituting, or alleged to constitute, a public record in accordance with the RTKL (“Requested Information”), Grantee or Subgrantee shall:

- (A) Provide the Commonwealth, within ten (10) calendar days after receipt of written notification, access to, and copies of, any document or information in Grantee's or Subgrantee's possession arising out of this Grant Agreement that the Commonwealth reasonably believes is Requested Information and may be a public record under the RTKL; and
 - (B) Provide such other assistance as the Commonwealth may reasonably request, in order to comply with the RTKL with respect to this Grant Agreement.
- (4) If Grantee or Subgrantee considers the Requested Information to include a request for a Trade Secret or Confidential Proprietary Information, as those terms are defined by the RTKL, or other information that Grantee or Subgrantee considers exempt from production under the RTKL, Grantee or Subgrantee must notify the Commonwealth and provide, within seven (7) calendar days of receiving the written notification, a written statement signed by a representative of Grantee or Subgrantee explaining why the requested material is exempt from public disclosure under the RTKL.
 - (5) The Commonwealth will rely upon the written statement from Grantee or Subgrantee in denying a RTKL request for the Requested Information unless the Commonwealth determines that the Requested Information is clearly not protected from disclosure under the RTKL. Should the Commonwealth determine that the Requested Information is clearly not exempt from disclosure, Grantee or Subgrantee shall provide the Requested Information within five (5) business days of receipt of written notification of the Commonwealth's determination.
 - (6) If Grantee or Subgrantee fails to provide the Requested Information within the time period required by these provisions, Grantee or Subgrantee shall indemnify and hold the Commonwealth harmless for any damages, penalties, costs, detriment or harm that the Commonwealth may incur as a result of Grantee's or Subgrantee's failure, including any statutory damages assessed against the Commonwealth.
 - (7) The Commonwealth will reimburse Grantee or Subgrantee for any costs associated with complying with these provisions only to the extent allowed under the fee schedule established by the office of Open Records or as otherwise provided by the RTKL if the fee schedule is inapplicable.
 - (8) Grantee or Subgrantee may file a legal challenge to any Commonwealth decision to release a record to the public with the Office of Open Records, or in the Pennsylvania Courts, however, Grantee or Subgrantee shall indemnify the Commonwealth for any legal expenses incurred by the Commonwealth as a result of such a challenge and shall hold the Commonwealth harmless for any damages, penalties, costs, detriment or harm that the Commonwealth may incur as a result of Grantee's or Subgrantee's failure, including any statutory damages assessed against the Commonwealth, regardless of the outcome of such legal challenge. As between the parties, Grantee or Subgrantee agrees to waive all rights or remedies

that may be available to it as a result of the Commonwealth's disclosure of Requested Information pursuant to the RTKL.

- (9) The Grantee's or Subgrantee's duties relating to the RTKL are continuing duties that survive the expiration of this Grant Agreement and shall continue as long as the Grantee or Subgrantee has Requested Information in its possession.

(l) Federal Contracting Provisions:

1. Contracting with Small and Minority Businesses, Women's Business Enterprises, and Labor Surplus Area Firms (2 CFR 200.321)

a. The Grantee must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

b. Affirmative steps must include:

b. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

c. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;

d. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;

e. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;

f. Using the services and assistance, as appropriate, or such organizations as the Small Business Administration and the Minority Business Development Agency of the U.S. Department of Commerce; and

g. Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (A) through (E) above.

2. Procurement of Recovered Materials

If the Grantee is an agency of a political subdivision of the Commonwealth of Pennsylvania, the Grantee must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency ("EPA") at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year

exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

(2 CFR 200.322).

3. Remedies

All subcontracts exceeding \$150,000 must address administrative, contractual, or legal remedies in instances where subcontractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate. (2 CFR Part 200 Appendix II (A)).

4. Termination Provisions

All subcontracts exceeding \$10,000 must address termination for cause and for convenience by the Grantee including the manner by which it will be effected and the basis for settlement.

(2 CFR Part 200 Appendix II (B)).

5. Equal Employment Opportunity Provisions:

If the Project involves construction and the construction contract exceeds \$10,000, the Grantee must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246 entitled "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375 entitled "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60 entitled "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

(2 CFR Part 200 Appendix II (C)).

6. Davis-Bacon Act Provisions:

When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by the Grantee pursuant to this Contract must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by the Department of Labor regulations (29 CFR part 5 entitled "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The Grantee must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract must be conditioned upon the acceptance of the wage determination. The Grantee must report all suspected or reported violations to the Grantor. The contract must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3 entitled "Contractors and Subcontractors on Public Building or Public Work

Financed in Whole or in Part by Loans or Grants from the United States”). The Copeland “Anti-Kickback Act provides that each contractor must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The Grantee must report all suspected or reported violations to the Federal awarding agency.
(2 CFR Part 200 Appendix II (D)).

7. Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708)

Where applicable, all contracts awarded by the Grantee in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by the Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic or laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
(2 CFR Part 200 Appendix II (E)).

8. Rights to Inventions Made Under a Contract or Agreement.

If the Grantee enters into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under this Contract, the Grantee must comply with the requirements of 37 CFR Part 401 entitled “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the Federal awarding agency.
(2 CFR Part 200 Appendix II (F)).

9. Clean Air Act (42 U.S.C. 7401-7671q.) and Federal Water Pollution Control Act (33 U.S.C. 1251-1387, as amended). The Grantee must comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act and the Federal water Pollution Control Act as amended. Violations must be reported to the Grantor. Subcontracts in excess of \$150,000 must contain this provision.
(2 CFR Part 200 Appendix II (G)).

10. Debarment and Suspension.

The Grantee may not enter into subcontracts with parties listed on the government-wide exclusions in the System for Award Management (“SAM”), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 Comp. p. 235), “Debarment and Suspension”.

SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. (2 CFR Part 200 Appendix II (H)).

11. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352).

The Grantee and its subcontractors must when applying or bidding for an award exceeding \$100,000 file the required certification under the Byrd Anti-Lobbying Amendment. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the Grantor. (2 CFR Part 200 Appendix II (I)).

**ARTICLE VI
ASSIGNMENT, TRANSFER, COLLATERAL USE**

This Contract shall be binding upon and inure to the benefit of the Grantor, the Grantee, and their respective successors and assigns, except that the Grantee may not assign or transfer its rights hereunder without the prior written consent of the Grantor. Approval of an assignment does not establish any legal relationship between the Commonwealth or the Grantor and any other third party, and under no circumstances shall the Commonwealth be held liable for any act or omission committed pursuant to such an assignment.

**ARTICLE VII
INDEPENDENT CONTRACTOR**

Notwithstanding anything contained herein to the contrary, the rights and duties hereby granted to and assumed by the Grantee are those of an independent contractor only. Nothing contained herein shall be so construed as to create an employment, agency or partnership relationship between the Grantor and the Grantee.

**ARTICLE VIII
INTEREST OF PARTIES AND OTHERS**

No officer, member, employee, independent contractor or elected official of the Commonwealth and no member of its governing body who exercises any functions or responsibilities in the review or approval of activities being performed under this Contract shall participate in any decision relating to this Contract which affects his/her personal interest or the interest of any corporation, partnership or association in which he/she is directly or indirectly interested. Nor shall any such officer, member, elected official or employee of the Commonwealth or any member of its governing body have any interest direct or indirect in this Contract or the proceeds thereof.

The Grantee covenants that the Grantee (including directors, officers, members and employees of the Grantee) presently has no interest and shall not acquire any interest, directly or indirectly, which would conflict in any manner or degree with the performance of activities required to be performed under this Contract. The Grantee further covenants that no person having any such interest shall be employed in the performance of activities for this Contract.

ARTICLE IX SUBCONTRACTS

The Grantee shall not execute or concur in any subcontract with any person or entity in any respect concerning the activities herein without prior written approval of the Grantor. Such prior written approval shall not be required for the purchase by the Grantee of articles, supplies, equipment and activities which are both necessary for and merely incidental to the performance of the work required under this Contract. The Grantee shall not execute or concur in any subcontract declared disapproved by the Grantor.

A subcontractor shall be automatically disapproved, without a declaration from the Grantor, if the subcontractor is currently or becomes suspended or debarred by the Commonwealth or the federal government. In any event, the Grantee shall be responsible for the quantity and quality of the performance of any of its subcontracts.

All subcontracts must contain provisions of nondiscrimination/sexual harassment as specified in the Article entitled Compliance with Applicable Statutes and Regulations, subsection (b) and, where applicable, must contain the federal contracting provisions as specified in the Article entitled Compliance with Applicable Statutes and Regulations subsection (l). In addition, all subcontracts involving the pass through of Contract funds to subrecipients must include the audit requirements contained in the Article entitled Contract Audit and Closeout Requirements. The Grantee is responsible for ensuring that all required audits of subcontractors are performed, and for resolving any findings contained in the audit reports. All costs deemed unallowable in the subcontract audit report are required to be returned to the Grantor, through the Grantee.

ARTICLE X BIDDING REQUIREMENTS

If the Grantee is a political subdivision or other entity for which open and competitive bidding procedures have been established by law, the Grantee shall comply with those procedures if they are applicable to the project being funded with the grant funds. Otherwise, the Grantee shall comply with open and competitive bidding procedures in awarding any and all grants, subgrants, contracts, subcontracts or other agreements in excess of \$10,000.00 for construction, reconstruction, demolition, alteration and/or repair, for acquisition of machinery and equipment, or for engagement of the services of a professional consultant, when said grants, subgrants, contracts, subcontracts or other agreements are funded in whole or at least 50% in part with funds made available under this Contract. Open and competitive bidding procedures require the Grantee to obtain a minimum of three arm's length bids from vendors capable of providing the goods and/or performing the services requested. Arm's length transactions occur when the parties to the transaction are not related to one another and each party is acting in its own self-interest. The Grantor may require the Grantee to submit proof of compliance with said procedures, and failure to provide such proof to the satisfaction of the Grantor may result in termination of the Contract and repayment of all or a portion of the funds available under this Contract. Upon written request and

for good cause shown, the Grantor may, at the Grantor's sole discretion, permit the Grantee to use an alternative procedure for solicitation of bids not inconsistent with law.

ARTICLE XI RECORDS

The Grantee, using accepted procedures, shall maintain at its principal office or place of business complete and accurate records and accounts including documents, correspondence and other evidence pertaining to costs and expenses of this Contract, and reflecting all matters and activities covered by this Contract. At any time during normal business hours and as often as the Grantor deems necessary, the Grantee shall make available for inspection by the Grantor, the Commonwealth Auditor General, the Commonwealth Attorney General, the Federal awarding agency, the Inspectors General or the Comptroller General of the United States, or their duly authorized representative, all of its records with respect to all matters covered by this Contract and will permit the Grantor to audit, examine and make copies of such records.

All required records shall be maintained by the Grantee for a period of three (3) years from the date of final audit or close out of this Contract by the Grantor, except in those cases where unresolved audit questions or litigation may require maintaining some or all records for a longer period. In such event, records shall be maintained until all pending matters are resolved. (2 CFR 200.333).

ARTICLE XII PROGRESS REPORTS

The Grantee and its subcontractors shall furnish to the Grantor such progress reports in such form and quantity as the Grantor may from time to time require, including, but not limited to, status reports of the project, project account statements, certificates, approvals, proposed budgets, invoices, copies of all contracts executed and proposed, employment placements, follow-up reports and any and all other information relative to the Contract as may be requested. The Grantor or its representative shall have the right to make reasonable inspections to monitor the Grantee's performance under this Contract.

In the event that the Grantor determines that the Grantee or its subcontractor(s) has not furnished such reports as required by the Grantor, the Grantor, by giving written notice to the Grantee, may suspend payments under this Contract until such time as the required reports are submitted.

ARTICLE XIII ACKNOWLEDGMENT OF COMMONWEALTH ASSISTANCE

Any publication concerning a project financed by the Grantor will acknowledge Commonwealth financial assistance as follows:

"This Project was financed *[in part]* by a grant
from the Commonwealth of Pennsylvania,
[insert name of Grantor]."

Any publication concerning a project financed by federal funds received under a grant administered by the Grantor will acknowledge Commonwealth grant administration as follows:

"This Project was financed *[in part]* by a grant from the federal Department of *[Name]*, under the administration of the Commonwealth of Pennsylvania, *[insert name of Grantor]*."

Signs acknowledging said Commonwealth financial assistance or administrative participation will be erected in the project area as soon as possible after the effective date of this Contract. Acknowledgment of Commonwealth financial assistance may be combined with acknowledgment of other funding sources on project signs or in project publications.

ARTICLE XIV AUDIT REQUIREMENTS

- (a) Audit Clause for Federal Grants (Management Directive 325.9 (5)(c))
 - (1) The Grantee must comply with all applicable federal and state grant requirements including *The Single Audit Act Amendments of 1996; 2 CFR Part 200 as amended*; and any other applicable law or regulation, and any amendment to such other applicable law or regulation that may be enacted or promulgated by the federal government.
 - (2) If the Grantee is a local government or non-profit organization that expends \$750,000 or more in federal awards during its fiscal year, the Grantee is required to provide the appropriate single or program specific audit in accordance with the provisions outlined in *2 CFR Part 200.501*.
 - (3) If the Grantee expends total federal awards of less than the threshold established by *2 CFR 200.501*, it is exempt from federal audit requirements for that year, but records must be available for review or audit by appropriate officials (or designees) of the federal agency, pass-through entity, and Government Accountability Office (GAO).
 - (4) If the Grantee is a for-profit entity, it is not subject to the auditing and reporting requirements of *2 CFR Part 200, Subpart F – Audit Requirements (Subpart F)*. However, the Grantor is responsible for establishing requirements, as necessary, to ensure compliance by for-profit subrecipients. The contract with the for-profit subrecipient should describe applicable compliance requirements and the for-profit subrecipient's compliance responsibility. Methods to ensure compliance for federal awards made to for-profit subrecipients may include pre-award audits, monitoring during the contract and post-award audits. The post-award audits may be in the form of a financial audit in accordance with *Government Auditing Standards*, a single audit report or program-specific audit report in accordance with *Subpart F*. However, these post-award audits must be submitted directly to the Grantor. Only single audit reports for local governmental and non-profit subrecipients are electronically submitted to the Federal Audit Clearinghouse.
- (b) Additional Potential Components of the Single Audit Reporting Package (Management Directive 325.9 (5)(c))

- (1) In instances where a federal program-specific audit guide is available, the audit report package for a program-specific audit may be different and should be prepared in accordance with the appropriate audit guide, *Government Auditing Standards*, and *Subpart F*.
- (2) In addition to the requirements of *Subpart F*, commonwealth agencies may require that the single audit reporting packages include additional components in the SEFA, or supplemental schedules, as identified through the respective grant agreement.

(c) Submission of the Audit Report (Management Directive 325.9 (5)(c))

The Grantee must submit an electronic copy of the audit report package to the Federal Audit Clearinghouse, which shall include the elements outlined in *Subpart F*.

(d) Submission of the Federal Audit Clearinghouse Confirmation (Management Directive 325.9 (5)(c))

The Grantee must send a copy of the confirmation from the Federal Audit Clearinghouse to the resource account RA-BOASingleAudit@pa.gov.

(e) Audit Oversight Provisions (Management Directive 325.9 (5)(c))

- (1) The Grantee is responsible for obtaining the necessary audit and securing the services of a certified public accountant or independent governmental auditor.
- (2) The Commonwealth reserves the right for federal and state agencies or their authorized representatives to perform additional audits of a financial or performance nature, if deemed necessary by commonwealth or federal agencies. Any such additional audit work will rely on work already performed by the Grantee's auditor and the costs for any additional work performed by the federal or state agencies will be borne by those agencies at no additional expense to the Grantee.
- (3) Audit Documentation and audit reports must be retained by the Grantee's auditor for a minimum of five years from the date of issuance of the audit report, unless the Grantee's auditor is notified in writing by the commonwealth, the cognizant federal agency for audit, or the oversight federal agency for audit to extend the retention period. Audit documentation will be made available upon request to authorized representatives of the commonwealth, the cognizant federal agency for audit, the oversight federal agency for audit, the federal funding agency, or the GAO.

(f) Project Closeout Procedures.

The submission of a Single Audit does not exempt the Grantee from complying with project closeout procedures as may be issued by the Grantor, including, but not limited to, the submission of a financial statement of the project after termination of project activities.

**ARTICLE XV
TEMPORARY SUSPENSION OF THE CONTRACT**

Upon written notice and at any time during the period covered under this Contract, the Grantor may suspend payments and/or request suspension of all or any part of the Contract activities. The Grantor may give such notice to suspend for the following reasons:

- (a) Violations of laws and regulations, audit exceptions, misuse of funds, failure to submit required reports or when responsible public officials or private citizens make allegations of mismanagement, malfeasance or criminal activity.
- (b) When, in the opinion of the Grantor, the activities cannot be continued in such manner as to adequately fulfill the intent of statute or regulations due to act of God, strike or disaster.

During the term of suspension, the Grantor and Grantee shall retain and hold available any and all funds previously approved for application to the activities. During this period all such funds held by the Grantee shall be placed in an interest bearing program expenditures account. The Grantee may not expend any such funds during the period that the Contract is suspended except pursuant to order of a court of competent jurisdiction. The Grantee shall have the right to cure any default or other circumstance that is the basis for suspension of this Contract within a reasonable period of time.

This Contract is also conditioned upon complete performance by the Grantee of past agreements or contracts between the Grantor and the Grantee. Complete performance includes the Grantee's timely submission of the required final audit of past agreements or contracts to the Grantor. In the event that the Grantor determines that there has been incomplete performance of past agreements or contracts by the Grantee, the Grantor, by giving written notice to the Grantee, will suspend payments under this Contract until such time as the Grantee has fulfilled its obligations under past agreements or contracts to the satisfaction of the Grantor. When the Grantee has fulfilled its obligation under past agreements or contracts to Grantor's satisfaction, the Grantor will resume payments under this Contract.

**ARTICLE XVI
TERMINATION OF THE CONTRACT**

The Grantor may terminate this Contract at any time for its convenience or for any other reason if it determines that termination is in its best interests, or is otherwise appropriate, by giving written notice to the Grantee of such termination and specifying the effective date thereof. Termination pursuant to this section shall not be applicable to funds that the Grantee is legally or contractually obligated to pay as a result of project activities entered into prior to the date that it receives written notice of termination. All grant monies not legally or contractually obligated, plus accrued interest, shall be returned to the Grantor on or before the effective date of termination and all project records shall be made available to the Grantor.

**ARTICLE XVII
ENTIRE AGREEMENT**

This Contract, when signed by all the parties hereto, constitutes the full and complete understanding and agreement of the parties of its express terms as provided above.

No provision of this Contract shall be construed in any manner so as to create any rights in third parties not party to this Contract. It shall be interpreted solely to define specific duties and responsibilities between the Grantor and the Grantee and shall not provide any basis for claims of any other individual, partnership, corporation, organization or municipal entity.

ARTICLE XVIII AMENDMENTS AND MODIFICATIONS

A properly executed Contract amendment is required to change the termination date of this Contract, to change the Contract Activity Period, to amend the Contract terms and conditions or to make major changes in the approved program scope, objectives or methods.

A Funding Release Form, signed by the Grantee, the Grantor, the Grantor's Office of Chief Counsel and Comptroller Operations, is required to reduce the amount of funds previously made available pursuant to an executed Funding Release Form.

Revisions to the Work Plan or Budget attached to an executed Funding Release Form may be made upon written approval from the Grantor after prior written request of the Grantee; provided, the request is made by the Grantee and approved by the Grantor prior to the termination or expiration of the Contract.

ARTICLE XIX SEVERABILITY

Should any section or any part of any section of this Contract be rendered void, invalid or unenforceable by any court of law, for any reason, such a determination shall not render void, invalid, or unenforceable any other section or part of any section of this Contract.

ARTICLE XX CONSTRUCTION

This Contract shall be interpreted and construed in accordance with federal law, where applicable, and with the laws of the Commonwealth. All of the terms and conditions of this Contract are expressly intended to be construed as covenants as well as conditions. The titles of the sections and subsections herein have been inserted as a matter of convenience and reference only and shall not control or affect the meaning or construction of any of the terms or provisions herein.

ARTICLE XXI NONWAIVER OF REMEDIES

No delay or failure on the part of the Grantor in exercising any right, power or privilege hereunder shall affect such right, power or privilege; nor shall any single or partial exercise thereof or any abandonment, waiver, or discontinuance of steps to enforce such a right, power or privilege preclude any other or further exercise thereof, or the exercise of any other right, power or privilege. The rights and remedies of the Grantor hereunder are cumulative and concurrent and not exclusive of any rights or remedies which it might otherwise have. The Grantor shall have the right at all times to enforce the provisions of this Contract in accordance with the terms hereof notwithstanding any conduct or custom on the part of the Grantor in refraining from so doing at any time or times. The failure of the Grantor at any time or times to enforce its rights

under such provisions, in accordance with the same, shall not be construed as having created a custom in any way or manner contrary to specific provisions of this Contract or as having in any way or manner modified or waived the same.

[Remainder of page left intentionally blank.]

IN WITNESS WHEREOF the parties hereunto have set their hands and seals on:

WITNESS:

«Grantee»

Vendor Number «VendorNo»
Federal Identification Number «FedID»

For Commonwealth signatures only



**Commonwealth of Pennsylvania
Acting through the
Department of Community and
Economic Development**

GRANTEE: Please sign & complete at "X's" only



X By: _____ (Seal)

X Title _____

X Date _____

Secretary/Deputy Secretary Date

X By _____

X Title _____

X Date _____

«AppCode» - «DollarAmt1»
«AppCode2» «DollarAmt2»
«AppCode3» «DollarAmt3»
«AppCode4» «DollarAmt4»
«AppCode5» «DollarAmt5»
«AppCode6» «DollarAmt6»
«AppCode7» «DollarAmt7»
«AppCode8» «DollarAmt8»
«AppCode9» «DollarAmt9»
«AppCode10» «DollarAmt10»

For Commonwealth signatures only



Approved as to Legality and Form

Program Wx - DOE
Contract # «ContractNo»
CFDA # 81.042

Office of Chief Counsel Date

**Comptroller approved as to fiscal responsibility,
budgetary appropriateness:**

Office of General Counsel Date

Comptroller Date

Office of Attorney General Date

APPENDIX A

PROJECT DESCRIPTION

Pennsylvania's Weatherization Assistance Program increases energy efficiency in homes by reducing energy costs and increasing comfort while safeguarding health and safety.

The funding will support the Weatherization Assistance Program (WAP) which is funded through the US Department of Energy (DOE) and is designed to minimize the adverse effects of high-energy costs on low-income residents. The success of the program will also reduce the strain of high energy uses on utility companies due to inefficient homes. Eligible residents must have income at or below 200% of the Federal Poverty Guidelines to qualify. Program Guidelines can be found at www.dced.pa.gov.

Applicants will be verified for eligibility and prioritized. Weatherization measures will be prescribed using a site-specific audit. Work may be done by in-house crews or subcontractors in accordance with DOE rules and regulations including using Lead Safe Work Practices and all work will be inspected by a certified Quality Control Inspector before being considered as a completed unit. Measures include, but are not limited to, window repair, air sealing, sidewall and attic insulation and furnace repair. Workers are certified and certifications maintained as required.

Client education for energy conservation is an important element. Clients are provided with education on ways to reduce their energy use and costs. Past experience supports that energy education is best delivered in the client's home during the audit, during the work, and upon final inspection. Since clients who become involved with the education plan will more likely follow the suggestions made, client participation is encouraged. In addition, clients must sign a compact setting out their commitment to conservation.

APPENDIX B

FUNDING RELEASE FORM EXAMPLE
(Increase in Funding)

<u>Date:</u>	<u>XX/XX/XXXX</u>
<u>Grantee Name:</u>	<u>XXXXXXXXXXXXXXXXXXXX</u>
<u>Vendor Number:</u>	<u>XXXXXX</u>
<u>Contract Number:</u>	<u>CXXXXXXXXXX</u>
<u>Funding Release Form Number:</u>	<u>CXXXXXXXXXX -</u>
<u>Total Prior Funding Released</u>	<u>\$.00</u>
<u>Current Funding Release Amount:</u>	<u>\$.00</u>
<u>Total Amount of All Funding Available under the Contract, including the Current Funding Release Amount.</u>	<u>\$.00</u>

CODING INFORMATION TOTALING CURRENT FUNDING RELEASE AMOUNT

- «AppCode» - «DollarAmt1»
- «AppCode2» «DollarAmt2»
- «AppCode3» «DollarAmt3»
- «AppCode4» «DollarAmt4»
- «AppCode5» «DollarAmt5»
- «AppCode6» «DollarAmt6»
- «AppCode7» «DollarAmt7»

The Department of Community and Economic Development hereby makes available to the Grantee the Current Funding Release Amount specified above, subject to the condition that it shall be used by the Grantee to carry out the activities specified in the Work Plan and Budget attached hereto and incorporated herein.

Approved: Commonwealth of Pennsylvania
Acting through the Department of
Community & Economic Development

Secretary or designee Date

Approved as to Legality and Form: _____
Office of Chief Counsel **Date**

Approved as to fiscal responsibility, budgetary appropriateness and availability of funds: _____
Comptroller **Date**

FUNDING RELEASE FORM EXAMPLE
(Reduction in Funding)

Date:	XX/XX/XXXX
Grantee Name:	XXXXXXXXXXXXXXXXXXXX
Vendor Number:	XXXXXX
Contract Number:	CXXXXXXXXX
Funding Release Form Number:	CXXXXXXXXX -
Total Prior Funding Released	\$.00
Current Funding Reduction Amount:	\$.00
Total Amount of All Funding Available under the Contract, including the Current Funding Reduction Amount.	\$.00

CODING INFORMATION TOTALING CURRENT FUNDING REDUCTION AMOUNT

- «AppCode» - «DollarAmt1»
- «AppCode2» «DollarAmt2»
- «AppCode3» «DollarAmt3»
- «AppCode4» «DollarAmt4»
- «AppCode5» «DollarAmt5»
- «AppCode6» «DollarAmt6»
- «AppCode7» «DollarAmt7»

The Department of Community and Economic Development hereby reduces, by the Current Funding Reduction Amount specified above, the amount of funds made available to the Grantee, subject to the condition that the remaining funds shall be used by the Grantee to carry out the activities specified in the Work Plan and Budget attached hereto and incorporated herein.

ATTEST: [Grantee]

(x) _____ (x) _____
 Secretary Date President Date

Approved: Commonwealth of Pennsylvania
 Acting through the Department of
 Community & Economic Development

 Secretary or designee Date

Approved as to Legality and Form: _____
 Office of Chief Counsel Date

Approved as to fiscal responsibility, budgetary appropriateness and nonavailability of funds: _____
 Comptroller Date

APPENDIX C

ADDITIONAL REQUIREMENTS

Notwithstanding any provision contained herein to the contrary, the following Additional Requirements apply to this Contract:

The Department of Energy (DOE) funds distributed under this contract must be used to provide energy conservation and weatherization services according to the following rules:

1. DOE regulations for weatherization as well as all pertinent Directives, national Standard Work Specifications (SWS) and the PA SWS Field Manual must be followed for all energy conservation and weatherization services provided with LIHEAP funds. All energy conservation and weatherization units reported as completed units must receive a final Quality Control Inspection (QCI) by a certified Quality Control Inspector to ensure the work meets the minimum specifications outlined in the SWS in accordance with 10CFR 440. The Health and Safety Expenditure Limit is 15% of the average cost per dwelling unit.
2. Subgrantee agrees to follow DOE's Standard Work Specifications (SWS) for Home Energy Upgrades and will ensure that all Weatherization staff and subcontractors receive all SWS requirements, Pennsylvania's WAP Standards and Field Guide, DCED Directives, DOE regulations and all other Federal, State and Municipal requirements and use them to guide the Weatherization work performed in client homes. Subgrantee agrees to ensure that all Weatherization staff and subcontractors understand and agree that all completed units must receive a final quality control inspection conducted by a certified Home Energy Professional Quality Control Inspector.

By signing the Contract, the Grantee represents, agrees to, certifies and acknowledges, where applicable, the following:

1. Directives, Policies, and Procedures.
 - a. The Grantee agrees to abide by all current directives, policies and procedures, as well as any future directives, policies and procedures as instructed by the Grantor. All current directives can be found on Grantor's website at <https://collab.pa.gov/dced/weatherization>.
 - b. The Grantee agrees to provide in a timely manner all reports requested by the Grantor.
2. Drug-Free Workplace.
 - a. The Grantee agrees to provide a drug-free workplace by:
 - i. 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.

- ii. Establishing a drug-free awareness program to inform employees about:
 - 1. The dangers of drug abuse;
 - 2. The Grantee's policy of maintaining a drug-free workplace;
 - 3. Any available drug counseling, rehabilitation, and employee assistance programs;
 - 4. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.
- iii. 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 2(a)(i).
- iv. Notifying the employee in the statement required by 2(a)(i) 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 of any criminal drug statute conviction for a violation occurring in the workplace not later than five days after such conviction.
- v. Notifying the Grantor within ten days after receiving notice under 2(a)(iv)(2), from an employees or otherwise receiving actual notice of such conviction.
- vi. Taking one of the following actions, within 30 days of receiving notice under 2(a)(iv)(2), with respect to any employee who is so convicted:
 - 1. Taking appropriate personnel action against such an employee, up to and including termination; 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.
- vii. Making a good faith effort to continue to maintain a drug-free workplace through implementation of the requirements listed in 2(a)(i) through (vi).
- b. The Grantee has identified and provided to the Grantor a list of the Grantee's office location(s) for the performance of work done in connection with the Contract.
- c. The Grantee is aware that the certification regarding Drug-Free Workplace Requirements is given in connection with any and all financial assistance from the Department of Energy after the date the Contract is signed by the Grantee. This includes payments after such date for financial assistance approved before such date. The applicant recognizes and agrees that any such assistance will be extended in reliance on the representation and agreements made under paragraph 2 above, and the United States shall have the right to seek judicial enforcement of these provisions. These provisions are binding on the Grantee, its successors, transferees, and assignees, and on the Grantee's authorized official(s) whose signature(s) appears on the signature page of the Contract.

3. Debarment and Suspension.

- a. The Grantee certifies to the best of its knowledge and belief that it and its principals:
 - i. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 - ii. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - iii. Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or local) with commission of any of the offenses enumerated in 3(a)(ii); and
 - iv. Have not within a three-year period preceding its grant application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.
- b. If the Grantee is unable to certify to any of the statements in 3(a), the Grantee shall provide the Grantor with a written explanation prior to signing the Contract.

4. Lobbying

- a. To the best of the Grantee's knowledge and belief, the Grantee certifies:
 - i. No federal appropriated funds have been paid or will be paid, by or on behalf of the Grantee, 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, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
 - ii. 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, the Grantee shall complete and submit Standard Form-LLL, Disclosure of Lobbying Activities, in accordance with its instructions.
 - iii. The Grantee shall require that the language appearing in 4(a) and (b) be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

- b. Grantee acknowledges that this certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. The Grantee's certification is a prerequisite for making or entering into this transaction imposed under Section 1352, Title 31, U. S. Code. Any person who fails to make the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for such failure.

- 5. Fidelity Bonding.
 - a. In accordance with Article IV(a) of the Contract, the Grantee shall complete and submit to the Grantor, simultaneously with the submission of each Funding Release Form, a Fidelity Bond Form (to be provided by the Department) containing the following information: :
 - i. Name of Bonding Company
 - ii. Address of Bonding Company
 - iii. Bond Number
 - iv. Total Amount of Bond
 - v. Effective Dates (from _____ to _____)
 - vi. Positions Covered

- 6. Federal Funding Accountability and Transparency Act Sub-Recipient Data Sheet.
 - a. The Grantee has completed the Federal Funding Accountability and Transparency Act Sub-Recipient Data Sheet and returned a signed copy of the form to the Grantor on or before the date the Grantee signed and returned the Contract.
 - b. The Grantee acknowledges that failure to complete and return the form will delay the execution of the Contract, as the Commonwealth will not process the Contract until such time as the Grantee completes and returns the form.

- 7. Public Access to Records
 - a. Units of General Local Government and Non-Profit Organizations:
 Recipients shall provide citizens reasonable access to records regarding the use of funds, consistent with applicable State and local laws regarding privacy and obligations of confidentiality. However, in accordance with 2 CFR 200.336 public access to records held by Federal, State, local government entities or non-profit organizations are not subject to the Federal Freedom of Information Act (5 U.S.C. 552) and unless required by Federal, State , or local law, grantees and sub-grantees are not required to permit public access to their records.

Both Units of General Local Government and Nonprofit Organizations are subject to requests for records made pursuant to the Pennsylvania Right-To-Know Law, 65 P.S. §§ 67.101-3104, when such requests relate to or arise out of the grant agreement into which the Units of General Local Government and Nonprofit Organizations have entered into with the Department of Community and Economic Development. The Pennsylvania Right-To-Know Law provisions appear in section (k) of Article V, Compliance with Applicable Statutes and Department Regulations, of the grant agreement.

8. Financial Requirements:
Grantees will comply with the requirements and policies of 2 CFR Part 200: "Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards.
9. Limited English Proficiency:
Title VI, Section 601 provides the Limited English Proficiency (LEP) Statutory Authority. Executive Order 13166(Issued Federal Register 65 FR 50121 on August 16, 2000) mandates improved access to federally assisted programs and activities for individuals who, as a result of their national origin, are limited in their English proficiency.