

## CLARK COUNTY STAFF REPORT

**DEPARTMENT:** Community Services

**DATE:** 07/25/16

**REQUESTED ACTION:** That the County Manager approve a grant from the Washington State Department of Commerce to fund weatherization services.

\_\_\_\_ Consent    \_\_\_\_ Hearing      X   County Manager

### BACKGROUND

This \$175,468 grant is provided by the U.S. Department of Energy (DOE) and is passed to the County through the Washington State Department of Commerce. The County has received this grant previously.

The grant provides DOE funding for administration and delivery of weatherization services to assist eligible low-income households in Clark County.

- ☐ This is a new project
- ☒ This is a continuation of an existing project

### COUNCIL POLICY IMPLICATIONS

There are no known council policy implications.

### ADMINISTRATIVE POLICY IMPLICATIONS

There are no known administrative policy implications.

### COMMUNITY OUTREACH

N/A

### BUDGET IMPLICATIONS

YES	NO	
X		Action falls within existing budget capacity.
	X	Action falls within existing budget capacity but requires a change of purpose within existing appropriation
	X	Additional budget capacity is necessary and will be requested at the next supplemental. If YES, please complete the budget impact statement. If YES, this action will be referred to the county council with a recommendation from the county manager.

### BUDGET DETAILS

Local Fund Dollar Amount	\$0
Grant Fund Dollar Amount	\$175,468 (WA State Department of Commerce F16-43103-406) CFDA Number 81.042
Account	Fund 1936 (Weatherization)
Company Name	WA State Department of Commerce (Grant F16-43103-406)



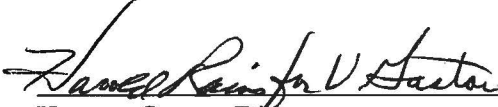
**DISTRIBUTION:**

Board staff will post all staff reports to The Grid. <http://www.clark.wa.gov/thegrid/>

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For questions please contact Jay Carstens or Mike Selig at 360-397-2130.

 7-25-16  
Jay Carstens, Management Analyst

  
Vanessa Gaston, Director

**APPROVED:** \_\_\_\_\_  
**CLARK COUNTY, WASHINGTON**  
**BOARD OF COUNTY COUNCILORS**

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

SR# \_\_\_\_\_

**APPROVED:**   
Mark McCauley, County Manager

DATE: 8/1/16





**BUDGET IMPACT ATTACHMENT – NONE****Part I: Narrative Explanation**

I. A – Explanation of what the request does that has fiscal impact and the assumptions for developing revenue and costing information

**Part II: Estimated Revenues**

Fund #/Title	Current Biennium		Next Biennium		Second Biennium	
	GF	Total	GF	Total	GF	Total
<b>Total</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

II. A – Describe the type of revenue (grant, fees, etc.)

**Part III: Estimated Expenditures**

III. A – Expenditures summed up

Fund #/Title	FTE's	Current Biennium		Next Biennium		Second Biennium	
		GF	Total	GF	Total	GF	Total
<b>Total</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

III. B – Expenditure by object category

Fund #/Title	Current Biennium		Next Biennium		Second Biennium	
	GF	Total	GF	Total	GF	Total
Salary/Benefits						
Contractual						
Supplies						
Travel						
Other controllables						
Capital Outlays						
Inter-fund Transfers						
Debt Service						
<b>Total</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>





# Department of Commerce

**Grant to:**

Clark County Community Development

through

Department of Commerce  
Housing Improvements and Preservation  
and  
Department of Energy (DOE)  
Weatherization Assistance Program (WAP)

**For:**

Program administration and delivery of  
weatherization services and cost effective energy-related services  
to assist low-income households.

**Start date:**

July 1, 2016

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Weatherization Manual, incorporated by reference


Washington State Weatherization Field Guide, incorporated by reference

Standard Work Specifications for Home Energy Upgrades, incorporated by reference

## FACE SHEET

Grant Number: F16-43103-406

**Washington State Department of Commerce  
Energy Division - Housing Improvements and Preservation  
Department of Energy (DOE) - Weatherization Assistance Program (WAP)**

<b>1. Grantee</b>  Clark County Community Development PO Box 9810 Vancouver, Washington 98666-9810		<b>2. Grantee Doing Business As (optional)</b>	
<b>3. Grantee Representative</b>  Marty Snell, Director 360.397.2375 fax: 360.759.6776 <a href="mailto:marty.snell@clark.wa.gov">marty.snell@clark.wa.gov</a>		<b>4. Commerce Representative</b>  Amanda Rains, DOE Program Manager      PO Box 42525 Policy and Contracts                      1011 Plum St. SE 360.725.2980 fax: 360.586.0489      Olympia, WA 98504-2525 <a href="mailto:amanda.rains@commerce.wa.gov">amanda.rains@commerce.wa.gov</a>	
<b>5. Grant Amount</b>  <b>\$175,468</b>	<b>6. Funding Source</b>  Federal	<b>7. Start Date</b>  July 1, 2016	<b>8. End Date</b>  June 30, 2017
<b>9. Federal Agency</b>  U.S. Department of Energy / Weatherization Assistance Program		<b>CFDA Number:</b>  81.042	
<b>10. Tax ID #</b>  91-0814319	<b>11. SWV #</b>  SWV0003051-00	<b>12. UBI #</b>  NA	<b>13. DUNS #</b>  030783757
<b>14. Grant Purpose</b>  The outcome of this program is to improve the energy efficiency of dwellings owned or occupied by eligible low-income persons/participants. This grant will provide DOE funds for administration and delivery of weatherization services and cost effective energy-related services to assist eligible low-income households.  Grantee signature confirms commitment to expend all funds no later than Grant End Date. If uncertain of the ability to expend all funds the Grantee Representative must contact the Commerce Representative by email no later than three months prior to Grant End Date.			
Commerce, defined as the Department of Commerce, and the Grantee, as defined above, acknowledge and accept the terms of this Grant and attachments and have executed this Grant on the date below to start as of the date and year referenced above. The rights and obligations of both parties to this Grant are governed by this Grant and the following documents attached or incorporated by reference: Terms and Conditions, Attachment A-Scope of Work, Attachment B-Budget., Attachment C-Certification, Weatherization Manual, Weatherization Field Guide, and Standard Work Specifications for Home Energy Upgrades.			
<b>FOR GRANTEE</b>   Authorized Signature  <u>MARK MCCAULEY, COUNTY MANAGER</u> PRINT Name and Title  <u>8/1/16</u> Date  <b>APPROVED AS TO FORM</b>		<b>FOR COMMERCE</b>  _____ Michael Furze, Assistant Director Energy Division  _____ Date  <b>APPROVED AS TO FORM ONLY – 7/15/2016 BY ASSISTANT ATTORNEY GENERAL APPROVAL ON FILE</b>	

  
 Deputy Prosecuting Attorney

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**SPECIAL TERMS AND CONDITIONS**  
**Department of Energy (DOE) - Weatherization Assistance Program (WAP)**

**1. AUTHORITY AND PURPOSE**

This Grant is made available under the provisions of the Energy Conservation and Production Act, an Act that amends the Federal Energy Administration Act of 1974 to extend the duration of authorities under such Act.

All grant awards made under this program shall comply with applicable current federal, state and local laws, rules, and regulations, including but not limited to 10 CFR Chapter's 200, 400, 600, and other policies and procedures as DOE may prescribe for the administration of the Weatherization Assistance Program (WAP).

The requirements of Commerce's federal grant (EERE Award NO. DE-EE0006191.004 Washington State Department of Commerce) apply to the Grantee, as applicable. The Grantee is required to include compliance with these requirements, as applicable, in all lower tier transactions for work carrying out the Grant purpose.

The purpose of the WAP is to increase the energy efficiency of dwellings owned or occupied by low-income persons, reduce their total residential expenditures, and improve their health and safety. The priority population for the WAP is persons who are particularly vulnerable such as the elderly, persons with disabilities, families with children, Native Americans, and high residential energy users/burden.

The Washington State Department of Commerce (Commerce), Energy Division, Housing Improvements and Preservation Unit administer these funds through local agencies to provide administration and delivery of low-income weatherization services to eligible homes.

**2. BILLING PROCEDURES AND PAYMENT**

The Grantee payment is based on monthly reimbursement in the amount of actual expenditures. No payment shall be made until Commerce receives an accurate and complete Request for Reimbursement--Form 19-1A Voucher Distribution due by the 15<sup>th</sup> of each month. If there are no expenditures during a month the Request for Reimbursement is still required by Commerce showing a zero amount in "Total This Period".

The Grantee may request an initial working capital advance one month prior to planned expenditure. The advance cannot exceed the Grantee's planned expenditures for the first sixty days' Administration/Program or ten percent (10%) of the total Administration/Program.

In any given year, all outstanding local agency advance amounts must be applied to allowable program costs on the June 19-1A Reimbursement Request Form and submitted to Commerce no later than July 15th. Outstanding advance amounts not cleared by July 15th will be billed to the local agency for payment.

The Grantee shall submit a Final Grant Closeout Report for each funding source that accurately reflects the work completed and funds expended during the program year. The Grantee shall submit reports by email to Commerce within 45 days after the program year closes.

Payments under this Grant may be suspended if the Final Grant Closeout Report and Request for Reimbursement for the prior year Grant are not received by the due date.

Commerce may, in its sole discretion, terminate the Grant or withhold payments claimed by the Grantee for services rendered if the Grantee fails to satisfactorily comply with any term or condition of this Grant.

**ADMINISTRATIVE COSTS ALLOCATION**

Allowable administrative costs actually incurred in operating activities funded under this Grant may be charged to this Grant.

Administrative services shared by other programs shall be assigned to this Grant based on an allocation plan that reflects allowable administrative costs that support services provided under each Grant administered by Commerce. An approved current federal indirect cost rate may be applied up to the maximum administrative budget allowed.

**SPECIAL TERMS AND CONDITIONS**  
**Department of Energy (DOE) - Weatherization Assistance Program (WAP)**

**ALLOWABLE COSTS**

For allowable use of Program funds refer to the Wx Manual.

**BUDGET REVISIONS**

The approved budget is included on the Grant Face Sheet/Amendment Face Sheet, and Attachment B-Budget.

The Grantee may transfer up to and including a cumulative total less than or equal to five percent (5%) of the sum of all Program Operations categories among approved Budget line items. Budget revisions in excess of five percent (5%) must be submitted to Commerce in writing with a Weatherization Grant Budget Change Request Form (email acceptable) and approved by Commerce before local agencies submit expenditure reports reflecting the revisions. The Grantee must provide the previously approved budgets (most recent budget or previously approved Grant Budget Change Request Form) and the proposed changes to the appropriate Commerce Weatherization Program Manager. Refer to the Wx Manual for additional guidance.

**DISALLOWED COSTS**

The Grantee is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its Subgrantees/subcontractors.

**PROGRAM INCOME**

Program income generated under this Grant may be used for costs not included in the total approved budget, if Commerce determines such costs are directly related to the objectives of the statute under which the grant was awarded. Such program income shall be used in the manner and in accordance with the terms and conditions established by the grant through which the program income was derived unless otherwise permitted by Commerce.

**PROPORTIONAL RETURN OF UNEXPENDED FUNDS**

A Grantee who returns unexpended funds to Commerce at the end of the Grant period shall return administrative and program operation funds in proportion to the Grant award unless Grant spending limits are more restrictive.

In the case of more restrictive spending limits, the spending limits shall apply.

**REDUCTION IN FUNDS**

If funding from the state, federal government, or other source is withdrawn, reduced, reallocated, or limited, after the effective date of this Grant and prior to normal completion, Commerce may immediately and unilaterally terminate the Grant, withdraw funding, or renegotiate the Grant subject to those new funding limitations and conditions. Commerce shall promptly notify the Grantee of such termination, withdrawal of funds, or intent to renegotiate the Grant. If the source of funding for this Grant is eliminated on a temporary or permanent basis, Commerce will not be responsible for reimbursing the Grantee for any work performed after the receipt of the notification.

Failure of the Grantee to meet performance standards, production projections, or comply with federal or state requirements may result in reduction of funds.

**SPECIAL TERMS AND CONDITIONS**  
**Department of Energy (DOE) - Weatherization Assistance Program (WAP)**

**REQUIRED REPORTS**

The Grantee shall submit required reports by the dates due using required forms according to procedures issued by Commerce. These reports shall include, but are not limited to:

<b><u>Reports</u></b>	<b><u>Date Due (Performance Measures)</u></b>
1. Monthly Request for Reimbursement	The 15 <sup>th</sup> of the month following expenditures.
2. Current Weatherization Information entered in WIDS	The 15 <sup>th</sup> of the month following completion.
3. Grant Closeout Report	45 days after close of Grant period.
4. Non-Expendable Equipment Inventory	45 days after close of Grant period.
5. Uniform Commercial Code Financing Statement (UCC 1 and UCC 2)	File as required by law and submit a copy with Request for Reimbursement.

The Grantee shall submit closeout reports after the close of the Grant period, during the transfer of obligations to another Grantee, or upon termination of the Grant for any reason. See Termination Procedures, GENERAL TERMS AND CONDITIONS.

**SPENDING LIMITS**

Commerce may establish spending limits on the total Grant award or on one or more budget categories within the Grant award.

**3. COMPENSATION**

Commerce shall pay an amount not to exceed the total grant amount on the Face Sheet and Attachment B-Budget for the performance of all things necessary for or incidental to the performance of work as set forth in Attachment A-Scope of Work.

**4. DEFINITIONS – Additional**

**See also GENERAL TERMS AND CONDITIONS-DEFINITIONS**

As used throughout this Grant, the following terms shall have the meaning set forth below:

- J. "Client" is a household that meets income eligibility guidelines and is eligible for low-income home weatherization through local Grantee agencies under this Grant.
- K. "Grantee or local agency" shall mean the entity identified on the Face Sheet performing services under this Grant, and shall include all employees and agents of the Grantee.
- L. "WIDS" is the Department of Commerce Weatherization Information Data System.
- M. "Wx Manual" is the Department of Commerce Weatherization Manual, current version, as applicable.
- N. "Wx Field Guide" is the Washington State Weatherization Field Guide, current version, as applicable.
- O. "Standard Work Specifications" is the Standard Work Specifications for Home Energy Upgrades, current version, as applicable.
- P. "Consumer Conservation" is the Consumer Conservation Education-Educator's Manual, current version, as applicable.

**SPECIAL TERMS AND CONDITIONS**  
**Department of Energy (DOE) - Weatherization Assistance Program (WAP)**

**5. INDEMNIFICATION/HOLD HARMLESS FOR SELF INSURED GRANTEES**

It is understood and agreed that this Grant is solely for the benefit of the parties to the Grant and gives no right to any other party. No joint venture or partnership is formed as a result of this Grant.

Each party to this Grant shall be responsible for the negligence of its officers, officials, employees, volunteers, and agents in the performance of this Grant and any Program Agreement. No party to this Grant or any Program Agreement shall be responsible for the acts and/or omissions of entities or individuals not party to this Grant and any Program Agreement.

Commerce and the Local Agency shall cooperate in the defense of tort lawsuits, when possible. Both parties agree and understand that this provision may not be feasible in all circumstances. Commerce and the Local Agency agree to notify the attorneys of record in any tort lawsuit where both are parties if either Commerce or the Local Agency enters into settlement negotiations. It is understood that the notice shall occur prior to any negotiations, or as soon as possible, and the notice may be either written or oral.

Subcontracts shall include a comprehensive indemnification clause holding harmless the Grantee, Commerce, the state of Washington, its officers, employees and authorized agents.

**6. INSURANCE**

The Grantee shall provide insurance coverage as set out in this section. The intent of the required insurance is to protect the state of Washington should there be any claims, suits, actions, costs, damages or expenses arising from any loss, or negligent or intentional act or omission of the Grantee or Subgrantee/subcontractor, or agents of either, while performing under the terms of this Grant.

An insurance company authorized to do business within the state of Washington shall issue the insurance required. Except for Professional Liability or Errors and Omissions Insurance, the insurance shall name the state of Washington, its agents, officers, and employees as additional insureds under the insurance policy. All policies shall be primary to any other valid and collectable insurance. The Grantee shall instruct the insurers to give Commerce thirty (30) calendar days' advance notice of any insurance cancellation, non-renewal, or modification.

The Grantee shall submit to Commerce within fifteen (15) calendar days of the Grant start date, a certificate of insurance which outlines the coverage and limits defined in this insurance section. During the term of the Grant, the Grantee shall submit renewal certificates not less than thirty (30) calendar days prior to expiration of each policy required under this section.

The Grantee shall provide insurance coverage that shall be maintained in full force and effect during the term of this Grant, as follows:

**Commercial General Liability Insurance Policy.** Provide a Commercial General Liability Insurance Policy, including contractual liability, written on an occurrence basis, in adequate quantity to protect against legal liability arising out of Grant activity but no less than \$1,000,000 per occurrence. Pollution Occurrence Insurance (POI) is strongly recommended as a part of, or an addendum to, general liability insurance. Additionally, the Grantee is responsible for ensuring that any Subgrantees/subcontractors provide adequate insurance coverage for the activities arising out of subcontracts.

**Automobile Liability.** In the event that performance pursuant to this Grant involves the use of vehicles, owned or operated by the Grantee or its Subgrantees/subcontractors, automobile liability insurance shall be required. The minimum limit for automobile liability is \$1,000,000 per occurrence, using a Combined Single Limit for bodily injury and property damage.

**Professional Liability, Errors and Omissions Insurance.** The Grantee shall maintain Professional Liability or Errors and Omissions Insurance. The Grantee shall maintain minimum limits of no less than \$1,000,000 per occurrence to cover all activities by the Grantee and licensed staff employed or under contract to the Grantee. The state of Washington, its agents, officers, and employees need *not* be named as additional insureds under this policy.

## **SPECIAL TERMS AND CONDITIONS**

### **Department of Energy (DOE) - Weatherization Assistance Program (WAP)**

**Fidelity Insurance.** Every officer, director, employee, or agent who is authorized to act on behalf of the Grantee for the purpose of receiving or depositing funds into program accounts or issuing financial documents, checks, or other instruments of payment for program costs shall be insured to provide protection against loss:

- A. The amount of fidelity coverage secured pursuant to this Grant shall be \$100,000 or the highest of planned reimbursement for the Grant period, whichever is lowest. Fidelity insurance secured pursuant to this paragraph shall name Commerce as beneficiary.
- B. Subgrantees/subcontractors that receive \$10,000 or more per year in funding through this Grant shall secure fidelity insurance as noted above. Fidelity insurance secured by Subgrantee/subcontractors pursuant to this paragraph shall name the Grantee as beneficiary.
- C. The Grantee shall provide, at Commerce's request, copies of insurance instruments or certifications from the insurance issuing agency. The copies or certifications shall show the insurance coverage, the designated beneficiary, who is covered, the amounts, the period of coverage, and that Commerce will be provided thirty (30) days advance written notice of cancellation.

#### **Self-Insured Grantees**

Self-Insured/Liability Pool or Self-Insured Risk Management Program – With prior approval from Commerce, the Grantee may provide the coverage above under a self-insured/liability pool or self-insured risk management program. In order to obtain permission from Commerce, the Grantee shall provide:

- (1) a description of its self-insurance program, and
- (2) a certificate and/or letter of coverage that outlines coverage limits and deductibles. All self-insured risk management programs or self-insured/liability pool financial reports must comply with Generally Accepted Accounting Principles (GAAP) and adhere to accounting standards promulgated by: 1) Governmental Accounting Standards Board (GASB), 2) Financial Accounting Standards Board (FASB), and 3) the Washington State Auditor's annual instructions for financial reporting. Grantee's participating in joint risk pools shall maintain sufficient documentation to support the aggregate claim liability information reported on the balance sheet. The state of Washington, its agents, and employees need not be named as additional insured under a self-insured property/liability pool, if the pool is prohibited from naming third parties as additional insured.

Grantee shall provide annually to Commerce a summary of coverages and a letter of self-insurance, evidencing continued coverage under Grantee's self-insured/liability pool or self-insured risk management program. Such annual summary of coverage and letter of self-insurance will be provided on the anniversary of the start date of this Grant.

#### **7. LAWS, REGULATIONS, POLICIES, TERMS AND CONDITIONS – Additional**

##### **See also GENERAL TERMS AND CONDITIONS-LAWS**

In performing under this Grant, the Grantee shall comply with all *applicable* laws, ordinances, codes, regulations, and policies of local, state, and federal governments, including, but not limited to:

##### **United States (Federal)**

- 2 CFR 200 Grants and Agreements.
- 10 CFR Energy, Chapter's 200, 400, 600.
- 24 CFR Housing and Urban Development.
- National Energy Conservation Policy Act of 1992.
- Federal Energy Administration Act of 1974, as amended in the Energy Conservation and Production Act.
- Lead-Based Paint Poisoning Prevention Act, 42 USC 4821-4846.
- Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 USC 4851-4856.
- Functions Guidelines for Finance and Compliance Audit of Federally Assisted Programs (GAO).
- Standards for Audit of Governmental Organizations, Programs, Activities.
- National Environmental Policy Act of 1969, 42 USC 4321 et seq. and the implementing regulations of 24 CFR 58 (HUD) and 40 CFR 1500 - 1518 (Council on Environmental Quality).



**SPECIAL TERMS AND CONDITIONS**  
**Department of Energy (DOE) - Weatherization Assistance Program (WAP)**

- Executive Order 11593, Protection and Enhancement of the Cultural Environment; 1971, as amended.
- Contracts in excess of \$100,000 shall comply with the Water Pollution Control Act, 33 U.S.C. 1251 et seq.
- Contracts in excess of \$100,000 shall comply with the Clean Air Act, 42 U.S.C. 7401 et seq.
- Flood Disaster Protection Act of 1973, 42 USC 4001-4128.
- National Historic Preservation Act of 1966, as amended (16 USC 469a-1 et seq. and 470).
- System for Award Management (SAM) requirement.
- Data Universal Identifier Numbering System (DUNS) requirement.

**State of Washington**

- Chapter 70.103 RCW, Lead-based paint.
- Chapter 365.230 WAC, Accreditation of lead-based paint training programs and the certification of firms and individuals conducting lead-based paint activities.
- Chapter 296-841, WAC, Airborne contaminants
- Chapter 51.50 WAC, Regulations for Barrier Free Facilities.

- **Prevailing Wage**

Regardless of funding source, the work performed by this Grant is subject to the State's prevailing wage law, Chapter 39.12 RCW. Prevailing Wage Act application depends on the nature of the work that is performed, regardless of the worker's job title. The Grantee is advised to consult with the Washington State Department of Labor and Industries Prevailing Wage Office to determine the prevailing wages that must be paid. [www.Lni.wa.gov/TradesLicensing/PrevWage/](http://www.Lni.wa.gov/TradesLicensing/PrevWage/).

Prevailing wages must be paid to the workers and include a listing of the prevailing wage rates that apply. Grantees and contractors are responsible for determining the correct worker classification(s) in order to ensure correct wages are paid.

Each and every individual Grantee and contractor on a public works project must individually file a Statement of Intent to Pay Prevailing Wages (Intent) form, and an Affidavit of Wages Paid (Affidavit) form for each contract to perform work.

- **Treatment of Assets – Additional**

See General Terms and Conditions, Treatment of Assets

The Grantee shall maintain records, perform inventories, and maintain control systems to prevent loss, damage, or theft of equipment, materials, and supplies.

The Grantee shall take the following actions to secure the financial interest of Commerce in items purchased with federal funds awarded to local agencies:

- E. The Grantee shall name Commerce as lien holder on certificates of title for motor vehicles (RCW 46.12.675). Copies of Certificates of Title for equipment shall be submitted to Commerce with the Expenditure Report on which they are claimed.
- F. Every five years, beginning in calendar year 1992, the Grantee will complete and submit to Commerce for approval signed Uniform Commercial Code (UCC1) Financing Statement Forms, listing equipment other than motor vehicles and fixtures described under section 3 below, with purchase costs of \$10,000 or more, and purchased under Commerce Grant, naming Commerce as Secured Party. The UCC1 Statements will include the phrase: "all presently owned and after-acquired inventory and equipment." Commerce will determine in which items it wishes to continue its secured interest from previous filings. Commerce will sign the statements and file them with the Department of Licensing, UCC Division, Olympia, WA 98504. (RCW 62A.9A.501)
- G. The Grantee shall complete and submit to Commerce for approval a signed Uniform Commercial Code (UCC2), Financing Statement Forms for fixtures (assets attached to realty) with acquisition costs of \$10,000 or more, and purchased with funds under the Grant, naming Commerce as Secured Party. If approved, Commerce will sign the statements and file them with the local county Auditor's Office in the county where the real estate is located (RCW 62A.9A.501).

## **SPECIAL TERMS AND CONDITIONS**

### **Department of Energy (DOE) - Weatherization Assistance Program (WAP)**

- H. Commerce and the Grantee will keep copies of all UCC filings.
- I. The Grantee shall maintain records, perform inventories, and maintain control systems to prevent loss, damage, or theft of equipment, materials, and supplies. Grantee shall keep property records in accordance with Federal requirements for all purchases funded by this Grant.
- J. A Non-Expendable Equipment Inventory Report shall also be submitted to Commerce as required. Commerce's interest in equipment purchased under this Grant and prior Grants from the same funding source is automatically transferred forward to the next grant year at the close of this Grant period.
- K. In the event of loss, destruction, or damage to any property purchased under this Grant, the Grantee shall notify Commerce and shall take all reasonable steps to protect that property from further damage. Unless otherwise directed by Commerce, the Grantee shall surrender to Commerce all property purchased under this Grant prior to settlement upon completion, termination, or cancellation of this Grant.

All purchases of equipment with a useful life of more than two years and an acquisition cost of \$5,000 or more per unit require prior Commerce approval.

#### **Department of Commerce**

- Low-Income Weatherization Assistance Program State Plan, current version, as applicable.
- Policy Memoranda, as applicable.
- Wx Manual, current version, as applicable.
- Wx Field Guide, current version, as applicable.
- Standard Work Specifications, current version, as applicable.
- Consumer Conservation, current version, as applicable.

## **8. WEATHERIZATION WORK**

### **COMPLETION OF WEATHERIZATION WORK**

A DOE Weatherized unit is a dwelling unit on which a DOE-approved energy audit or priority list has been performed. As funds allow, the appropriate measures installed on this unit have an SIR of 1.0 or greater, but also may include any necessary energy-related health and safety measures.

The use of DOE funds on a unit may include but are not limited to auditing, testing, measure installation, inspection, use of DOE equipment, vehicles, or DOE provides the training and/or administration. Therefore, a dwelling unit that meets both the definition of a DOE Weatherized unit and has funds used directly on it must be counted as a DOE completed unit.

Weatherization services performed on dwelling units with funds awarded under this Grant shall be completed, inspected, and approved to the standards specified in the Wx Manual and applicable Field Guide by the Grant End Date. Units must receive comprehensive inspection to ensure quality work meets required specifications.

### **DOCUMENTS ON FILE**

Documents consistent with federal and state regulations, as applicable, shall be kept on file in the office of the local program and available for review. Such documents shall include, but not be limited to:

- Articles of Incorporation/Tribal Charter
- By-laws
- IRS Nonprofit Status Certification
- Latest Agency Audit
- Insurance and Bonding Policies Required by the Grant
- Documents required by the Wx Manual.

**SPECIAL TERMS AND CONDITIONS**  
**Department of Energy (DOE) - Weatherization Assistance Program (WAP)**

**MONITORING PROCEDURES**

Monitoring Procedures with contractors in all lower tiers.

The Grantee is required to have written monitoring procedures for all weatherized projects and monitor its work performance to include:

- A. Business eligibility (not on federal debarment list).
- B. Ensure contractors are insured, licensed, bonded, and can provide proof of training and certifications.
- C. Scope of work development.
- D. Prior approval of work change orders.
- E. Authorization to work.
- F. Compliance with state prevailing wage law.
- G. Payment approval.
- H. Inspections.
- I. Monitoring procedures for any lower-tier entity.

**PERFORMANCE EXPECTATIONS**

The Grantee shall comply with all applicable local, state, and federal licensing and accrediting requirements/standards and any other standard or criteria established by Commerce to assure quality of services necessary for the performance of the Grant and additional requirements contained in all documents incorporated by reference in the Grant. The Grantee shall include these requirements in all approved contracts.

**PUBLICATIONS**

Grantee is encouraged to publish or otherwise make publicly available the results of the work conducted under the award.

An acknowledgement 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:

***Acknowledgement:*** "The information, data, or work presented herein was funded in part by the Office of Energy Efficiency and Renewable Energy (EERE), U.S. Department of Energy.

***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 assume 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."

The Grantee agrees that one copy of any such publication will be submitted to Commerce to be placed on file.



**SPECIAL TERMS AND CONDITIONS**  
**Department of Energy (DOE) - Weatherization Assistance Program (WAP)**

**RECORDS MAINTENANCE – Additional**

**See also General Terms and Conditions-Records Maintenance**

The Grantee shall maintain copies of all reimbursement requests by contractors for eligible dwelling units with funds provided under this Grant.

The Grantee shall maintain building cost and unit cost calculation records in a manner that complies with the Wx Manual.

Where multiple funding sources are used, separate costs by funding source shall be either:

- 1) Identified for program operation, health and safety, weatherization-related repair, total costs, and average costs per unit.
- 2) Distributed based on a documented cost allocation plan.

The share of costs borne by each party or grant shall be recorded. All revenues and reimbursements received by the Grantee shall be recorded by source and amount.

**RELEASE OF INFORMATION**

The Grantee shall clearly state in all press releases, requests for proposals, bid solicitations, and other documents describing projects or programs funded in whole or in part with federal money:

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

The Grantee shall not finance the acquisition of goods or services (including construction services) with an aggregate value of \$500,000 or more unless the recipient of the federal grant agrees, as a condition for receipt of such grant, to:

- 1) Specify in any announcement of the awarding of the Grant for procurement for goods and services involved (including construction services) the amount of federal funds that will be used to finance the acquisition.
- 2) Express the amount announced pursuant to paragraph (1) as a percentage of the total costs of the planned acquisition.

**WRITTEN POLICIES, PROCEDURES, AND GUIDELINES**

Written policies, procedures, and guidelines consistent with federal and state regulations, as applicable, shall be kept on file in the office of the Grantee and available for review. Such policies, procedures, and guidelines shall include, but not be limited to:

- 1) Personnel
- 2) Job Descriptions
- 3) Organizational Chart
- 4) Travel
- 5) Fiscal Management
- 6) Affirmative Action Policy and Plan, including:
  - Location of facilities and accessibility to target populations.
  - Provision for bilingual employees or volunteers, as appropriate.

**SPECIAL TERMS AND CONDITIONS**  
**Department of Energy (DOE) - Weatherization Assistance Program (WAP)**

**9. ORDER OF PRECEDENCE**

In the event of an inconsistency in this Grant, the inconsistency shall be resolved by giving precedence in the following order:

- Applicable federal and state of Washington statutes and regulations
- Special Terms and Conditions
- General Terms and Conditions
- Attachment A – Scope of Work
- Attachment B – Budget
- Attachment C – Certification
- Wx Manual, incorporated by reference
- Wx Field Guide, incorporated by reference
- Standard Work Specifications, incorporated by reference

**GENERAL TERMS AND CONDITIONS**  
**Department of Energy (DOE) - Weatherization Assistance Program (WAP)**

**1. DEFINITIONS**

As used throughout this Grant, the following terms shall have the meaning set forth below:

- A. "Authorized Representative" shall mean the Director and/or the designee authorized in writing to act on the Director's behalf.
- B. "Commerce" shall mean the Department of Commerce.
- C. "Grant" or "Agreement" means the entire written agreement between COMMERCE and the Grantee, including any Exhibits, documents, or materials incorporated by reference. E-mail or Facsimile transmission of a signed copy of this contract shall be the same as delivery of an original.
- D. "Grantee" shall mean the entity identified on the Face Sheet performing service(s) under this Grant, and shall include all employees and agents of the Grantee. For the purposes of this grant, the Grantee is considered a "Subrecipient" of the federal award.
- E. "Pass-through entity" means a non-Federal entity that provides a subaward to a subrecipient to carry out part of a Federal program.
- F. "Personal Information" shall mean information identifiable to any person, including, but not limited to, information that relates to a person's name, health, finances, education, business, use or receipt of governmental services or other activities, addresses, telephone numbers, social security numbers, driver license numbers, other identifying numbers, and any financial identifiers.
- G. "State" shall mean the state of Washington.
- H. "Subaward" means an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a Federal award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract. Payment to Grantee under this Grant is a subaward.
- I. "Subrecipient" means a non-federal entity that receives a subaward from a pass-through entity to carry out part of a federal program; but does not include an individual that is a beneficiary of such a program. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency. See 2 CFR 200.330 for subrecipient determination. Grantee is a subrecipient.

**2. ACCESS TO DATA**

In compliance with RCW 39.29.080, the Grantee shall provide access to data generated under this Grant to Commerce, the Joint Legislative Audit and Review Committee, and the Office of the State Auditor at no additional cost. This includes access to all information that supports the findings, conclusions, and recommendations of the Grantee's reports, including computer models and the methodology for those models.

**3. ADVANCE PAYMENTS PROHIBITED**

No payments in advance of or in anticipation of goods or services to be provided under this Grant shall be made by Commerce.

**4. ALL WRITINGS CONTAINED HEREIN**

This Grant contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this Grant shall be deemed to exist or to bind any of the parties hereto.

**5. AMENDMENTS**

This Grant may be amended by mutual agreement of the parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

## GENERAL TERMS AND CONDITIONS

### Department of Energy (DOE) - Weatherization Assistance Program (WAP)

**6. AMERICANS WITH DISABILITIES ACT (ADA) OF 1990, PUBLIC LAW 101-336, also referred to as the "ADA" 28 CFR Part 35**

The Grantee must comply with the ADA, which provides comprehensive civil rights protection to individuals with disabilities in the areas of employment, public accommodations, state and local government services, and telecommunications.

**7. ASSIGNMENT**

Neither this Grant, nor any claim arising under this Grant, shall be transferred or assigned by the Grantee without prior written consent of Commerce.

**8. ATTORNEYS' FEES**

Unless expressly permitted under another provision of the Grant, in the event of litigation or other action brought to enforce Grant terms, each party agrees to bear its own attorney's fees and costs.

**9. AUDIT**

**A. General Requirements**

Grantee's are to procure audit services based on the following guidelines.

The Grantee shall maintain its records and accounts so as to facilitate the audit requirement and shall ensure that subgrantees/subcontractors also maintain auditable records.

The Grantee is responsible for any audit exceptions incurred by its own organization or that of its contractors.

Commerce reserves the right to recover from the Grantee all disallowed costs resulting from the audit.

Responses to any unresolved management findings and disallowed or questioned costs shall be included with the audit report. The Grantee must respond to Commerce requests for information or corrective action concerning audit issues within thirty (30) days of the date of request.

**B. Federal Funds Requirements – 2 CFR Part 200**

Grantees expending \$750,000 or more in a fiscal year (that begins after December 26, 2014) in federal funds from all sources, direct and indirect, are required to have an audit conducted in accordance with 2 CFR Part 200. For fiscal years beginning prior to December 26, 2014, Grantees are required to have an audit conducted in accordance with Federal audit requirements. When state funds are also to be paid under this Agreement a Schedule of State Financial Assistance as well as the required schedule of Federal Expenditure must be included. Both schedules include:

- Grantor agency name
- Federal agency
- Federal program name
- Other identifying contract numbers
- Catalog of Federal Domestic Assistance (CFDA) number (if applicable)
- Grantor contract number
- Total award amount including amendments (total grant award)
- Current year expenditures

If the Grantee is a state or local government entity, the Office of the State Auditor shall conduct the audit. Audits of non-profit organizations are to be conducted by a certified public accountant selected by the Grantee in accordance with 2CFR Part 200.

The Grantee shall include the above audit requirements in any Subgrants/subcontracts.

In any case, the Grantee's financial records must be available for review by Commerce.

## GENERAL TERMS AND CONDITIONS

### Department of Energy (DOE) - Weatherization Assistance Program (WAP)

#### C. Documentation Requirements

The Grantee must send a copy of any required audit Reporting Package as described in 2 CFR, Part 200 no later than nine (9) months after the end of the Grantee's fiscal year(s) by sending a scanned copy to [auditreview@commerce.wa.gov](mailto:auditreview@commerce.wa.gov) or a hard copy to:

Department of Commerce  
Attn: Audit Review and Resolution Office  
1011 Plum Street SE  
PO Box 42525  
Olympia WA 98504-2525

In addition to sending a copy of the audit, when applicable, the Grantee must include:

- Corrective action plan for audit findings within three (3) months of the audit being received by Commerce.
- Copy of the Management Letter.

#### **10. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION—PRIMARY AND LOWER TIER COVERED TRANSACTIONS**

- A. Grantee, defined as the primary participant in accordance with 45 CFR Part 76, and its principals, certifies by signing these General Terms and Conditions that to the best of its knowledge and belief that they:
1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency.
  2. Have not within a three-year period preceding this Grant, 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 or private agreement or transaction, violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice;
  3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of federal Executive Order 12549; and
  4. Have not within a three-year period preceding the signing of this Grant had one or more public transactions (Federal, State, or local) terminated for cause of default.
- B. Where the Grantee is unable to certify to any of the statements in this Grant, the Grantee shall attach an explanation to this Grant.
- C. The Grantee agrees by signing this Grant that 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 Commerce.
- D. The Grantee further agrees by signing this Grant that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion- Primary and Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions:

##### **LOWER TIER COVERED TRANSACTIONS**

- a) The lower tier Grantee certifies, by signing this Grant that neither it nor its principals are 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 lower tier Grantee is unable to certify to any of the statements in this Grant, the lower tier Grantee must provide a written explanation to Grantee.

## GENERAL TERMS AND CONDITIONS

### Department of Energy (DOE) - Weatherization Assistance Program (WAP)

- E. The terms **covered transaction, debarred, suspended, ineligible, lower tier covered transaction, person, primary covered transaction, principal, and voluntarily excluded**, as used in this section, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact Commerce for assistance in obtaining a copy of these regulations.

#### 11. CONFIDENTIALITY/SAFEGUARDING OF INFORMATION

- A. "Confidential Information" as used in this section includes:
1. All material provided to the Grantee by Commerce that is designated as "confidential" by COMMERCE;
  2. All material produced by the Grantee that is designated as "confidential" by Commerce; and
  3. All personal information in the possession of the Grantee that may not be disclosed under state or federal law. "Personal information" includes but is not limited to information related to a person's name, health, finances, education, business, use of government services, addresses, telephone numbers, social security number, driver's license number and other identifying numbers, and "Protected Health Information" under the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA).
- B. The Grantee shall comply with all state and federal laws related to the use, sharing, transfer, sale, or disclosure of Confidential Information. The Grantee shall use Confidential Information solely for the purposes of this Grant and shall not use, share, transfer, sell or disclose any Confidential Information to any third party except with the prior written consent of Commerce or as may be required by law. The Grantee shall take all necessary steps to assure that Confidential Information is safeguarded to prevent unauthorized use, sharing, transfer, sale or disclosure of Confidential Information or violation of any state or federal laws related thereto. Upon request, the Grantee shall provide Commerce with its policies and procedures on confidentiality. Commerce may require changes to such policies and procedures as they apply to this Grant whenever Commerce reasonably determines that changes are necessary to prevent unauthorized disclosures. The Grantee shall make the changes within the time period specified by Commerce. Upon request, the Grantee shall immediately return to Commerce any Confidential Information that Commerce reasonably determines has not been adequately protected by the Grantee against unauthorized disclosure.
- C. Unauthorized Use or Disclosure. The Grantee shall notify Commerce within five (5) working days of any unauthorized use or disclosure of any confidential information, and shall take necessary steps to mitigate the harmful effects of such use or disclosure.

#### 12. CONFLICT OF INTEREST

Notwithstanding any determination by the Executive Ethics Board or other tribunal, Commerce may, in its sole discretion, by written notice to the Grantee terminate this grant if it is found after due notice and examination by Commerce that there is a violation of the Ethics in Public Service Act, Chapter 42.52 RCW; or any similar statute involving the Grantee in the procurement of, or performance under this grant.

Specific restrictions apply to contracting with current or former state employees pursuant to chapter 42.52 of the Revised Code of Washington. The Grantee and their subcontractor(s) must identify any state of Washington employees or former state employees employed or on the firm's governing board during the past 24 months. Identify the individual by name, the agency previously or currently employed by, job title or position held, and separation date. If it is determined by Commerce that a conflict of interest exists, the Grantee may be disqualified from further consideration for the award of a grant.

In the event this grant is terminated as provided above, Commerce shall be entitled to pursue the same remedies against the Grantee as it could pursue in the event of a breach of the grant by the Grantee. The rights and remedies of Commerce provided for in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law. The existence of facts upon which Commerce makes any determination under this clause shall be an issue and may be reviewed as provided in the "Disputes" clause of this grant.



**GENERAL TERMS AND CONDITIONS**  
**Department of Energy (DOE) - Weatherization Assistance Program (WAP)**

**13. COPYRIGHT PROVISIONS**

Unless otherwise provided, all Materials produced under this Grant shall be considered "works for hire" as defined by the U.S. Copyright Act and shall be owned by Commerce. Commerce shall be considered the author of such Materials. In the event the Materials are not considered "works for hire" under the U.S. Copyright laws, the Grantee hereby irrevocably assigns all right, title, and interest in all Materials, including all intellectual property rights, moral rights, and rights of publicity to Commerce effective from the moment of creation of such Materials.

"Materials" means all items in any format and includes, but is not limited to, data, reports, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions. "Ownership" includes the right to copyright, patent, register and the ability to transfer these rights.

For Materials that are delivered under the Grant, but that incorporate pre-existing materials not produced under the Grant, the Grantee hereby grants to Commerce a nonexclusive, royalty-free, irrevocable license (with rights to sublicense to others) in such Materials to translate, reproduce, distribute, prepare derivative works, publicly perform, and publicly display. The Grantee warrants and represents that the Grantee has all rights and permissions, including intellectual property rights, moral rights and rights of publicity, necessary to grant such a license to Commerce.

The Grantee shall exert all reasonable effort to advise Commerce, at the time of delivery of Materials furnished under this Grant, of all known or potential invasions of privacy contained therein and of any portion of such document which was not produced in the performance of this Grant. The Grantee shall provide Commerce with prompt written notice of each notice or claim of infringement received by the Grantee with respect to any Materials delivered under this Grant. Commerce shall have the right to modify or remove any restrictive markings placed upon the Materials by the Grantee.

**14. DISPUTES**

Except as otherwise provided in this Grant, when a dispute arises between the parties and it cannot be resolved by direct negotiation, either party may request a dispute hearing with the Director of Commerce, who may designate a neutral person to decide the dispute.

The request for a dispute hearing must:

- be in writing;
- state the disputed issues;
- state the relative positions of the parties;
- state the Grantee's name, address, and Grant number; and
- be mailed to the Director and the other party's (respondent's) Grant Representative within three (3) working days after the parties agree that they cannot resolve the dispute.

The respondent shall send a written answer to the requestor's statement to both the Director or the Director's designee and the requestor within five (5) working days.

The Director or designee shall review the written statements and reply in writing to both parties within ten (10) working days. The Director or designee may extend this period if necessary by notifying the parties.

The decision shall not be admissible in any succeeding judicial or quasi-judicial proceeding.

The parties agree that this dispute process shall precede any action in a judicial or quasi-judicial tribunal.

Nothing in this Grant shall be construed to limit the parties' choice of a mutually acceptable alternate dispute resolution (ADR) method in addition to the dispute hearing procedure outlined above.

**GENERAL TERMS AND CONDITIONS**  
**Department of Energy (DOE) - Weatherization Assistance Program (WAP)**

**15. DUPLICATE PAYMENT**

Commerce shall not pay the Grantee, if the Grantee has charged or will charge the State of Washington or any other party under any other Grant, subgrant/subcontract, or agreement, for the same services or expenses.

**16. GOVERNING LAW AND VENUE**

This Grant shall be construed and interpreted in accordance with the laws of the state of Washington, and the venue of any action brought hereunder shall be in the Superior Court for Thurston County.

**17. INDEMNIFICATION**

To the fullest extent permitted by law, the Grantee shall indemnify, defend, and hold harmless the state of Washington, Commerce, agencies of the state and all officials, agents and employees of the state, from and against all claims or damages for injuries or death arising out of or resulting from the performance of the Grant. "Claim" as used in this Grant, means any financial loss, claim, suit, action, damage, or expense, including but not limited to attorney's fees, attributable for bodily injury, sickness, disease, or death, or injury to or the destruction of tangible property including loss of use resulting therefrom.

The Grantee's obligation to indemnify, defend, and hold harmless includes any claim by Grantee's agents, employees, representatives, or any subgrantee/subcontractor or its employees.

Grantee expressly agrees to indemnify, defend, and hold harmless the State for any claim arising out of or incident to Grantee's or any contractor's performance or failure to perform the Grant. Grantee's obligation to indemnify, defend, and hold harmless the State shall not be eliminated or reduced by any actual or alleged concurrent negligence of State or its agents, agencies, employees, and officials.

The Grantee waives its immunity under Title 51 RCW to the extent it is required to indemnify, defend, and hold harmless the State and its agencies, officers, agents, or employees.

**18. INDEPENDENT CAPACITY OF THE CONTRACTOR**

The parties intend that an independent contractor relationship will be created by this Grant. The Grantee and its employees or agents performing under this Grant are not employees or agents of the state of Washington or Commerce. The Grantee will not hold itself out as or claim to be an officer or employee of Commerce or of the state of Washington by reason hereof, nor will the Grantee make any claim of right, privilege or benefit which would accrue to such officer or employee under law. Conduct and control of the work will be solely with the Grantee.

**19. INDIRECT COSTS**

The Grantee shall provide their indirect cost rate that has been negotiated between their entity and the Federal Government. If no such rate exists a de minimis indirect cost rate of 10% of modified total direct costs (MTDC) will be used.

**20. INDUSTRIAL INSURANCE COVERAGE**

The Grantee shall comply with all applicable provisions of Title 51 RCW, Industrial Insurance. If the Grantee fails to provide industrial insurance coverage or fails to pay premiums or penalties on behalf of its employees as may be required by law, Commerce may collect from the Grantee the full amount payable to the Industrial Insurance Accident Fund. Commerce may deduct the amount owed by the Grantee to the accident fund from the amount payable to the Grantee by Commerce under this Grant, and transmit the deducted amount to the Department of Labor and Industries, (L&I) Division of Insurance Services. This provision does not waive any of L&I's rights to collect from the Grantee.



**GENERAL TERMS AND CONDITIONS**  
**Department of Energy (DOE) - Weatherization Assistance Program (WAP)**

**21. LAWS**

The Grantee shall comply with all applicable laws, ordinances, codes, regulations, and policies of local, state, and federal governments, as now or hereafter amended, including, but not limited to:

**United States - Laws, Regulations and Circulars (Federal)**

**Audits**

2 CFR Part 200

**Labor and Safety Standards**

Convict Labor, 18 U.S.C. 751, 752, 4081, 4082.

Drug-Free Workplace Act of 1988, 41 USC 701 et seq.

Federal Fair Labor Standards Act, 29 U.S.C. 201 et seq.

Work Hours and Safety Standards Act, 40 U.S.C. and Department of Labor Regulations, 29 CFR Part 5.

**Laws against Discrimination**

Age Discrimination Act of 1975, Public Law 94-135, 42 U.S.C. 6101-07, 45 CFR Part 90

Nondiscrimination in Federally Assisted Programs.

Americans with Disabilities Act of 1990, Public Law 101-336.

Equal Employment Opportunity, Executive Order 11246, as amended by Executive Order 11375 and supplemented in U.S. Department of Labor Regulations, 41 CFR Chapter 60.

Executive Order 11246, as amended by EO 11375, 11478, 12086 and 12102.

Employment under Federal Contracts, Rehabilitation Act of 1973, Section 503, 29 U.S.C. 793.

Nondiscrimination under Federal Grants, Rehabilitation Act of 1973, Section 504, 29 U.S.C. 794.

Minority Business Enterprises, Executive Order 11625, 15 U.S.C. 631.

Minority Business Enterprise Development, Executive Order 12432, 48 FR 32551.

Nondiscrimination and Equal Opportunity, 24 CFR 5.105(a).

Nondiscrimination in benefits, Title VI of the Civil Rights Act of 1964, Public Law 88-352, 42 U.S.C. 2002d et seq, 24 CFR Part 1.

Nondiscrimination in employment, Title VII of the Civil Rights Act of 1964, Public Law 88-352.

Nondiscrimination in Federally Assisted Construction Contracts, Executive Order 11246, 42 U.S.C. 2000e, as amended by Executive Order 11375, 41 CFR Chapter 60.

Section 3, Housing and Urban Development Act of 1968, 12 USC 1701u (See 24 CFR 570.607(b)).

**Office of Management and Budget Circulars**

2 CFR Parts 200

**Other**

Anti-Kickback Act, 18 U.S.C. 874, 40 U.S.C. 276b, 276c; 41 U.S.C. 51-54.

Governmental Guidance for New Restrictions on Lobbying; Interim Final Guidance, Federal Register 1, Vol. 54, No. 243\Wednesday, December 20, 1989.

Hatch Political Activity Act, 5 U.S.C. 1501-8.

Lobbying and Disclosure, 42 USC 3537a and 3545 and 31 USC 1352. (Byrd Anti-Lobbying Amendment).

31 U.S.C. 1352 provides that Contractors who apply or bid for an award of \$100,000 or more must file the required certification. 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 other award covered by 31 U.S.C. 1352. Each tier must 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 recipient.

Non-Supplanting Federal Funds.

Section 8 Housing Assistance Payments Program.

**Privacy**

Privacy Act of 1974, 5 U.S.C. 522(a).

**GENERAL TERMS AND CONDITIONS**  
**Department of Energy (DOE) - Weatherization Assistance Program (WAP)**

**Washington State Laws and Regulations**

Affirmative action, RCW 41.06.020 (1).

Boards of directors or officers of non-profit corporations – Liability - Limitations, RCW 4.24.264.

Disclosure-campaign finances-lobbying, Chapter 42.17A RCW.

Discrimination-human rights commission, Chapter 49.60 RCW.

Ethics in public service, Chapter 42.52 RCW.

Office of minority and women's business enterprises, Chapter 39.19 RCW and Chapter 326-02 WAC.

Open public meetings act, Chapter 42.30 RCW.

Public records act, Chapter 42.56 RCW.

State budgeting, accounting, and reporting system, Chapter 43.88 RCW.

**22. LICENSING, ACCREDITATION, AND REGISTRATION**

The Grantee shall comply with all applicable local, state, and federal licensing, accreditation and registration requirements or standards necessary for the performance of this Grant.

**23. LIMITATION OF AUTHORITY**

Only the Authorized Representative or Authorized Representative's designee by writing (designation to be made prior to action) shall have the express, implied, or apparent authority to alter, amend, modify, or waive any clause or condition of this Grant. Furthermore, any alteration, amendment, modification, or waiver or any clause or condition of this Grant is not effective or binding unless made in writing and signed by the Authorized Representative or Authorized Representative's delegate.

**24. NONCOMPLIANCE WITH NONDISCRIMINATION LAWS**

During the performance of this Grant, the Grantee shall comply with all federal, state, and local nondiscrimination laws, regulations and policies. In the event of the Grantee's non-compliance or refusal to comply with any nondiscrimination law, regulation or policy, this Grant may be rescinded, canceled or terminated in whole or in part, and the Grantee may be declared ineligible for further Grants with the state. The Grantee shall, however, be given a reasonable time in which to cure this noncompliance. Any dispute may be resolved in accordance with the "Disputes" procedure set forth herein.

**25. POLITICAL ACTIVITIES**

Political activity of Grantee employees and officers are limited by the State Campaign Finances and Lobbying provisions of Chapter 42.17 RCW and the Federal Hatch Act, 5 USC 1501 - 1508.

No funds may be used under this Grant for working for or against ballot measures or for or against the candidacy of any person for public office.

**26. PROCUREMENT STANDARDS FOR FEDERALLY FUNDED PROGRAMS**

A Grantee which is a local government or Indian Tribal government must establish procurement policies and procedures in accordance with 2 CFR Part 200, for all purchases funded by this Grant.

A Grantee which is a nonprofit organization shall establish procurement policies in accordance with 2 CFR Part 200, for all purchases funded by this Grant.

The Grantee's procurement system should include at least the following:

1. A code or standard of conduct that shall govern the performance of its officers, employees, or agents engaged in the awarding of contracts using federal funds.
2. Procedures that ensure all procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition.

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3. Minimum procedural requirements, as follows:
- a. Follow a procedure to assure the avoidance of purchasing unnecessary or duplicative items.
  - b. Solicitations shall be based upon a clear and accurate description of the technical requirements of the procured items.
  - c. Positive efforts shall be made to use small and minority-owned businesses.
  - d. The type of procuring instrument (fixed price, cost reimbursement) shall be determined by the Grantee, but must be appropriate for the particular procurement and for promoting the best interest of the program involved.
  - e. Contracts shall be made only with reasonable contractors who possess the potential ability to perform successfully under the terms and conditions of the proposed procurement.
  - f. Some form of price or cost analysis should be performed in connection with every procurement action.
  - g. Procurement records and files for purchases shall include all of the following:
    - 1) Contractor selection or rejection.
    - 2) The basis for the cost or price.
    - 3) Justification for lack of competitive bids if offers are not obtained.
  - h. A system for contract administration to ensure Grantee conformance with terms, conditions and specifications of this Grant, and to ensure adequate and timely follow-up of all purchases.
4. Grantee and contractor must receive prior approval from Commerce for using funds from this Grant to enter into a sole source contract or a contract where only one bid or proposal is received when value of this contract is expected to exceed \$5,000.
- Prior approval requests shall include a copy of proposed contract and any related procurement documents and justification for non-competitive procurement, if applicable.

**27. PUBLICITY**

The Grantee agrees not to publish or use any advertising or publicity materials in which the state of Washington or Commerce's name is mentioned, or language used from which the connection with the state of Washington's or Commerce's name may reasonably be inferred or implied, without the prior written consent of Commerce.

**28. RECAPTURE**

In the event that the Grantee fails to perform this Grant in accordance with state laws, federal laws, and/or the provisions of this Grant, Commerce reserves the right to recapture funds in an amount to compensate Commerce for the noncompliance in addition to any other remedies available at law or in equity.

Repayment by the Grantee of funds under this recapture provision shall occur within the time period specified by Commerce. In the alternative, Commerce may recapture such funds from payments due under this Grant.

**29. RECORDS MAINTENANCE**

The Grantee shall maintain all books, records, documents, data and other evidence relating to this Grant and performance of the services described herein, including but not limited to accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Grant.

The Grantee shall retain such records for a period of six years following the date of final payment. At no additional cost, these records, including materials generated under the Grant, shall be subject at all reasonable times to inspection, review or audit by Commerce, personnel duly authorized by Commerce, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or agreement.

If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been finally resolved.

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**30. REGISTRATION WITH DEPARTMENT OF REVENUE**

If required by law, the Grantee shall complete registration with the Washington State Department of Revenue.

**31. RIGHT OF INSPECTION**

The Grantee shall provide right of access to its facilities to Commerce, or any of its officers, or to any other authorized agent or official of the state of Washington or the federal government, at all reasonable times, in order to monitor and evaluate performance, compliance, and/or quality assurance under this Grant.

**32. SAVINGS**

In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this Grant and prior to normal completion, Commerce may terminate the Grant under the "Termination for Convenience" clause, without the ten business day notice requirement. In lieu of termination, the Grant may be amended to reflect the new funding limitations and conditions.

**33. SEVERABILITY**

The provisions of this Grant are intended to be severable. If any term or provision is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the Grant.

**34. SITE SECURITY**

While on Commerce premises, Grantee, its agents, employees, or subcontractors shall conform in all respects with physical, fire or other security policies or regulations.

**35. CONTRACTING**

The Grantee may contract or provide a subaward for work under this Grant if it obtains the prior written approval of Commerce.

If Commerce approves contracting, the Grantee shall maintain written procedures related to contracting, as well as copies of all contracts and records related to contracts. For cause, Commerce in writing may: (a) require the Grantee to amend its contracting procedures as they relate to this Grant; (b) prohibit the Grantee from contracting with a particular person or entity; or (c) require the Grantee to rescind or amend a contract.

Every contract shall bind the contractor to follow all applicable terms of this Grant. The Grantee is responsible to Commerce if the contractor fails to comply with any applicable term or condition of this Grant. The Grantee shall appropriately monitor the activities of the contractor to assure fiscal conditions of this Grant. In no event shall the existence of a contract operate to release or reduce the liability of the Grantee to Commerce for any breach in the performance of the Grantee's duties.

Every contract shall include a term that Commerce and the State of Washington are not liable for claims or damages arising from a contractor's performance of the contract.

**36. SURVIVAL**

The terms, conditions, and warranties contained in this Grant that by their sense and context are intended to survive the completion of the performance, cancellation or termination of this Grant shall so survive.

**37. TAXES**

All payments accrued on account of payroll taxes, unemployment contributions, the Grantee's income or gross receipts, any other taxes, insurance or expenses for the Grantee or its staff shall be the sole responsibility of the Grantee.

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#### **38. TERMINATION FOR CAUSE**

In the event Commerce determines the Grantee has failed to comply with the conditions of this Grant in a timely manner, Commerce has the right to suspend or terminate this Grant. Before suspending or terminating the Grant, Commerce shall notify the Grantee in writing of the need to take corrective action. If corrective action is not taken within 30 calendar days, the Grant may be terminated or suspended.

In the event of termination or suspension, the Grantee shall be liable for damages as authorized by law including, but not limited to, any cost difference between the original Grant and the replacement or cover Grant and all administrative costs directly related to the replacement Grant, e.g., cost of the competitive bidding, mailing, advertising and staff time.

Commerce reserves the right to suspend all or part of the Grant, withhold further payments, or prohibit the Grantee from incurring additional obligations of funds during investigation of the alleged compliance breach and pending corrective action by the Grantee or a decision by COMMERCE to terminate the Grant. A termination shall be deemed a "Termination for Convenience" if it is determined that the Grantee: (1) was not in default; or (2) failure to perform was outside of his or her control, fault or negligence.

The rights and remedies of Commerce provided in this Grant are not exclusive and are, in addition to any other rights and remedies, provided by law.

#### **39. TERMINATION FOR CONVENIENCE**

Except as otherwise provided in this Grant Commerce may, by ten (10) business days' written notice, beginning on the second day after the mailing, terminate this Grant, in whole or in part. If this Grant is so terminated, Commerce shall be liable only for payment required under the terms of this Grant for services rendered or goods delivered prior to the effective date of termination.

#### **40. TERMINATION PROCEDURES**

Upon termination of this Grant, Commerce, in addition to any other rights provided in this Grant, may require the Grantee to deliver to Commerce any property specifically produced or acquired for the performance of such part of this Grant as has been terminated. The provisions of the "Treatment of Assets" clause shall apply in such property transfer.

Commerce shall pay to Grantee the agreed upon price, if separately stated, for completed work and services accepted by Commerce, and the amount agreed upon by the Grantee and Commerce for (i) completed work and services for which no separate price is stated, (ii) partially completed work and services, (iii) other property or services that are accepted by Commerce, and (iv) the protection and preservation of property, unless the termination is for default, in which case the Authorized Representative shall determine the extent of the liability of Commerce. Failure to agree with such determination shall be a dispute within the meaning of the "Disputes" clause of this Grant. Commerce may withhold from any amounts due the Grantee such sum as the Agent determines to be necessary to protect Commerce against potential loss or liability.

The rights and remedies of Commerce provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Grant.

After receipt of a notice of termination, and except as otherwise directed by the Agent, the Grantee shall:

1. Stop work under the Grant on the date, and to the extent specified, in the notice;
2. Place no further orders or subgrants/subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the work under the Grant that is not terminated;
3. Assign to Commerce, in the manner, at the times, and to the extent directed by the Authorized Representative, all of the rights, title, and interest of the Grantee under the orders and subgrants/subcontracts so terminated, in which case Commerce has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subgrants/subcontracts;

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4. Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the Authorized Representative to the extent Authorized Representative may require, which approval or ratification shall be final for all the purposes of this clause;
5. Transfer title to Commerce and deliver in the manner, at the times, and to the extent directed by the Authorized Representative any property which, if the Grant had been completed, would have been required to be furnished to Commerce;
6. Complete performance of such part of the work as shall not have been terminated by the Authorized Representative; and
7. Take such action as may be necessary, or as the Authorized Representative may direct, for the protection and preservation of the property related to this Grant, which is in the possession of the Grantee and in which Commerce has or may acquire an interest.

#### **41. TREATMENT OF ASSETS**

Title to all property furnished by Commerce shall remain in Commerce. Title to all property furnished by the Grantee, for the cost of which the Grantee is entitled to be reimbursed as a direct item of cost under this Grant, shall pass to and vest in Commerce upon delivery of such property by the Grantee. Title to other property, the cost of which is reimbursable to the Grantee under this Grant, shall pass to and vest in Commerce upon (i) issuance for use of such property in the performance of this Grant, or (ii) commencement of use of such property in the performance of this Grant, or (iii) reimbursement of the cost thereof by Commerce in whole or in part, whichever first occurs.

- A. Any property of Commerce furnished to the Grantee shall, unless otherwise provided herein or approved by Commerce, be used only for the performance of this Grant.
- B. The Grantee shall be responsible for any loss or damage to property of Commerce that results from the negligence of the Grantee or which results from the failure on the part of the Grantee to maintain and administer that property in accordance with sound management practices.
- C. If any Commerce property is lost, destroyed or damaged, the Grantee shall immediately notify Commerce and shall take all reasonable steps to protect the property from further damage.
- D. The Grantee shall surrender to Commerce all property of Commerce prior to settlement upon completion, termination, or cancellation of this Grant.

All reference to the Grantee under this clause shall also include Grantee's employees, agents, or Subgrantees/subcontractors.

#### **42. WAIVER**

Waiver of any default or breach shall not be deemed to be a waiver of any subsequent default or breach. Any waiver shall not be construed to be a modification of the terms of this Grant unless stated to be such in writing and signed by Authorized Representative of Commerce.

## Scope of Work

The Grantee shall provide program administration and delivery of low-income weatherization services, which may include but is not limited to performance of the following duties:

**1. Program – Overview**

Perform all tasks and duties per the terms and conditions of this Grant.

**2. Program Administration – Financial Management**

- a. Maintain accounting records of expenses including, but not limited to: building rent, maintenance, utilities; office equipment and furniture rental and purchase; administrative staff costs.
- b. If the Grantee does not expend all DOE funds by the end of the grant period Commerce may retain the unexpended funds. An allocation or spending limit reduction of \$50,000 or ten percent (10%) of the grant total, whichever is greater, may be instituted in the next DOE Grant.
- c. Grantees shall work with Commerce to ensure the statewide Average Cost Per Unit stays under \$5,000 as agreed upon with the Department of Energy in the 2016 Weatherization State Plan.
- d. Grantees shall adhere to the target unit production for their agency listed on page 6 of the 2016 Weatherization State Plan.

**3. Program Operations – Weatherization Services and Training and Technical Assistance**

- a. Perform energy efficiency testing on dwelling units of income eligible households; provide health and safety, and weatherization-related repairs identified during testing; and provide needed weatherization services identified during testing per the Wx Manual and/or the Wx Field Guide.
- b. Maintain accurate and complete building cost and unit cost calculation records per the Wx Manual and the Wx Field Guide.
- c. Maintain accurate and complete client files that comply with the Wx Manual.
- d. Ensure staff and subcontractors' required technical trainings and certifications are current.
- e. Ensure appropriate staff representation at required meetings.

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