



**NEW HAMPSHIRE ENERGY EFFICIENCY & CONSERVATION BLOCK GRANT AGREEMENT**

TRC Environmental Corporation and the Sub-recipient hereby mutually agree as follows:

**GENERAL PROVISIONS**

**1. IDENTIFICATION.**

<b>1.1 EECBG Sub-grant Manager Name:</b> TRC Environmental Corporation (TRC)		<b>1.2 EECBG Sub-grant Manager Address:</b> 155 Fleet St. Suite #305, Portsmouth NH 03801	
<b>1.3 Sub-recipient (Local Government Entity) Name:</b> Town of New London		<b>1.4 Sub-recipient (Local Government Entity) Address:</b>	
<b>1.5 Sub-recipient Phone No.</b>	<b>1.6 Agreement No.</b> 240-265-266	<b>1.7 Completion Date</b> 03/10/2012	<b>1.8 Price Limitation</b> \$359,000
<b>1.9 Contracting Officer for TRC:</b> Francis X, Reilly, Jr., Senior Vice President TRC Environmental Corporation		<b>1.10 TRC Telephone Number:</b> (603) 766-1913	
<b>1.11 Sub-recipient Signature</b> (See Exhibit A Section A)		<b>1.12 Typed Name and Title of Sub-recipient Signatory:</b>	
<p><b>1.13 Acknowledgment:</b> State of _____ County of _____                  On _____, before the undersigned officer, personally appeared the person identified in Block 1.12., or satisfactorily proven to be the person whose name is signed in Block 1.11., and acknowledged that s/he executed this document in the capacity indicated in Block 1.12.</p>			
<b>1.13.1 Signature of Notary Public or Justice of the Peace</b>			
[SEAL]			
<b>1.13.2 Name and Title of Notary Public or Justice of the Peace</b>			
<b>1.14 TRC Signature</b>		<b>Date</b>	
<b>1.15 Name and Title of TRC Signatory</b> Francis X, Reilly, Jr., Senior Vice President TRC Environmental Corporation		<b>1.16 Effective Date</b>	

Sub-Recipient Initials \_\_\_\_\_

Date \_\_\_\_\_

**2. SCOPE OF WORK OF SUB-RECIPIENT TO BE PERFORMED.**

TRC Environmental Corporation (“TRC”), engages Sub-recipient identified in block 1.3 (“Sub-recipient”) to perform, and the Sub-recipient shall perform the work identified and more particularly described in attached EXHIBIT A - Scope of Work which is incorporated herein by reference (“Work”).

**3. EFFECTIVE DATE/COMPLETION OF SERVICES.**

**3.1** Notwithstanding any provision of this Agreement to the contrary, this Agreement, and all obligations of the parties hereunder, shall not become effective until the date the Sub-recipient receives an Approval Notice of the Agreement execution from TRC (“Effective Date”). **3.2** If the Sub-recipient commences the Work prior to the Effective Date, all Work performed by the Sub-recipient prior to the Effective Date shall have been performed at the sole risk of the Sub-recipient, and in the event that this Agreement does not become effective, neither TRC nor New Hampshire Office of Energy and Planning (NHOEP) shall have any liability to the Sub-recipient, including without limitation, any obligation to pay the Sub-recipient for any costs incurred or Work performed. Sub-recipient must complete all Work by the Completion Date specified in block 1.7.

**4. CONDITIONAL NATURE OF AGREEMENT.**

Notwithstanding any provision of this Agreement to the contrary, all obligations of TRC hereunder, including, without limitation, the continuance of payments hereunder, are contingent upon the availability and continued appropriation of funds, and in no event shall TRC be liable for any payments hereunder in excess of such available appropriated funds. In the event of a reduction or termination of appropriated funds, for this Agreement and associated Work, TRC shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate this Agreement immediately upon giving the Sub-recipient notice that funding has been reduced or terminated.

**5. AGREEMENT PRICE/PRICE LIMITATION/ PAYMENT.**

**5.1** The Agreement price, method of payment, and terms of payment are identified and more particularly described in EXHIBIT B which is incorporated herein by reference.

**5.2** The payment by TRC of the agreement price shall be the full and complete reimbursement to the Sub-recipient for any and all expenses, of whatever nature incurred by the Sub-recipient in its performance under this Agreement. TRC shall have no liability to the Sub-recipient other than the Price Limitation.

**5.3** TRC reserves the right to offset from any amounts otherwise payable to the Sub-recipient under this Agreement those liquidated amounts required or permitted by law.

**5.4** Notwithstanding any provision in this Agreement to the contrary, and notwithstanding unexpected circumstances, in no event shall the total payments authorized, or actually made hereunder, exceed the Price Limitation set forth in block 1.8.

**6. COMPLIANCE BY SUB-RECIPIENT WITH LAWS. AND REGULATIONS/ EQUAL EMPLOYMENT OPPORTUNITY.**

**6.1** In connection with the performance of the Work, the Sub-recipient and any of its Vendors, shall comply with all statutes, laws, regulations, and orders of federal, state, county or municipal

authorities which impose any obligation or duty upon the Sub-recipient, including, but not limited to, civil rights and equal opportunity laws. In addition, the Sub-recipient shall comply with all applicable copyright laws.

**6.2** During the term of this Agreement, the Sub-recipient shall not discriminate against employees or applicants for employment because of race, color, religion, creed, age, sex, handicap, sexual orientation, or national origin and will take affirmative action to prevent such discrimination.

**6.3** If this Agreement is funded in any part by monies of the United States, the Sub-recipient shall comply with specific federal requirements, including but not limited to, the Davis –Bacon Act clause, the Buy American Act clause, the National Environmental Policy Act clause, and National Historic Preservation Act, with all the provisions of Executive Order No. 11246 (“Equal Employment Opportunity”), as supplemented by the regulations of the United States Department of Labor (41 C.F.R. Part 60), and with any rules, regulations and guidelines as the State of New Hampshire or the United States issue to implement these regulations. The Sub-recipient further agrees to permit the Office of the Governor/ Office of Economic Stimulus, Department of Energy (DOE), NHOEP, TRC or the United States access to any of the Sub-recipient’s books, records and accounts for the purpose of ascertaining compliance with all rules, regulations and orders, and the covenants, terms and conditions of this Agreement.

**7. PERSONNEL.**

**7.1** The Sub-recipient shall at its own expense provide all personnel necessary to perform the Work in accordance with the Completion Date. The Sub-recipient warrants that all its personnel or those of its Vendors engaged in the Work shall be qualified to perform the Work, and shall be properly licensed and trained and otherwise authorized to do so under all applicable laws. **7.2** Unless otherwise authorized in writing, during the term of this Agreement, and for a period of six (6) months after the Completion Date in block 1.7, the Sub-recipient shall not hire, and shall not permit any Vendor, subcontractor or other person, firm or corporation with whom it is engaged in a combined effort to perform the Work to hire, any person who is a State employee or official, who is materially involved in the procurement, administration or performance of this Agreement. This provision shall survive termination of this Agreement.

**7.3** The Contracting Officer specified in block 1.9, or his or her successor, shall be TRC’s representative. In the event of any dispute concerning the interpretation of this Agreement, the Contracting Officer’s decision shall be final.

**8. EVENT OF DEFAULT/REMEDIES. 8.1** Any one or more of the following acts or omissions of the Sub-recipient or its Vendors shall constitute an event of default hereunder (“Event of Default”): **8.1.1** failure to perform the Work satisfactorily or on schedule; **8.1.2** failure to submit any report required hereunder; and/or **8.1.3** failure to perform any other covenant, term or condition of this Agreement. **8.2** Upon the occurrence

Sub-recipient Initials \_\_\_\_\_

Date \_\_\_\_\_

of any Event of Default, TRC may take any one, or more, or all, of the following actions: **8.2.1** give the Sub-recipient a written notice specifying the Event of Default and requiring it to be remedied within, in the absence of a greater or lesser specification of time, thirty (30) days from the date of the notice; and if the Event of Default is not timely remedied, terminate this Agreement, effective two (2) days after giving the Sub-recipient notice of termination; and/or **8.2.2** treat the Agreement as breached and pursue any of its remedies at law or in equity, or both.

**9. DATA/ACCESS/CONFIDENTIALITY/PRESERVATION.**

**9.1** As used in this Agreement, the word “data” shall mean all information and things developed or obtained during the performance or implementation of, or acquired or developed by reason of, this Agreement, including, but not limited to, all studies, reports, files, formulae, surveys, maps, charts, sound recordings, video recordings, pictorial reproductions, drawings, analyses, graphic representations, computer programs, computer printouts, notes, letters, memoranda, papers, and documents, all whether finished or unfinished. **9.2** All data and any property which has been received from DOE/ NHOEP/ TRC or purchased with funds provided for that purpose under this Agreement, shall be the property of the Office of the Governor/ Office of Economic Stimulus/DOE/ NHOEP/TRC, and shall be returned to TRC upon demand or upon termination of this Agreement for any reason.

**9.3** Confidentiality of data shall be governed by N.H. RSA chapter 91- A or other existing law. Disclosure of data requires prior written approval of the State.

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

**11. SUB-RECIPIENT’S RELATION WITH TRC.** In the performance of this Agreement the Sub-recipient and its Vendors are in all respects an independent contractor, and is neither an agent nor an employee of TRC. Neither the Sub-recipient nor any of its officers, employees, agents Vendors, or members shall have authority to bind TRC or receive any benefits, workers’ compensation or other emoluments provided by TRC to its employees.

**12. ASSIGNMENT/DELEGATION/SUBCONTRACTS.** Sub-recipient shall not assign, or otherwise transfer any interest in this Agreement without the prior written consent of TRC.

**13. INDEMNIFICATION.** The Sub-recipient shall defend, indemnify and hold harmless the State of New Hampshire (State), NHOEP and TRC, its officers and employees, from and against any and all losses suffered by the State, NHOEP and/or TRC, their officers and employees, and from any and all claims, liabilities or penalties asserted against the State, NHOEP and/or TRC, their officers and employees, by or on behalf of any person, on account of, based or resulting from,

arising out of (or which may be claimed to arise out of) the acts or omissions of the Sub-recipient or anyone under its control. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State, NHOEP and TRC, which immunity is hereby reserved to the State, NHOEP and TRC. This covenant in paragraph 13 shall survive the termination of this Agreement.

**14. INSURANCE.** **14.1** The Sub-recipient shall, at its sole expense, obtain and maintain in force, and shall require any Vendor, subcontractor or assignee to obtain and maintain in force, the following insurance: **14.1.1** comprehensive general liability insurance against all claims of bodily injury, death or property damage, in amounts of not less than \$500,000 per occurrence and \$2,000,000 aggregate; and **14.1.2** fire and extended coverage insurance covering all property subject to subparagraph 9.2 herein, in an amount not less than 80% of the whole replacement value of the property. **14.1.3** all other insurance required to be carried by persons or entities operating a business/performing services in the State of New Hampshire including Automobile Liability insurance covering all owned, hired and non-owned vehicles utilized in performance of services **14.2** The policies described in Subparagraph 14.1 herein shall be on policy forms and endorsements approved for use in the State of New Hampshire by the N.H. Department of Insurance, and issued by insurers licensed in the State of New Hampshire.**14.3** The Sub-recipient shall furnish to the Contracting Officer identified in block 1.9, or his or her successor, a certificate(s) of insurance for all insurance required under this Agreement. Sub-recipient shall also furnish to the Contracting Officer identified in block 1.9, or his or her successor, certificate(s) of insurance for all renewal(s) of insurance required under this Agreement no later than fifteen (15) days prior to the expiration date of each of the insurance policies. The certificate(s) of insurance and any renewals thereof shall be attached and are incorporated herein by reference. Each certificate(s) of insurance shall contain a clause requiring the insurer to endeavor to provide the Contracting Officer identified in block 1.9, or his or her successor, no less than ten (10) days prior written notice of cancellation or modification of the policy. **14.4** NHOEP, TRC and each of their officers, directors and employees shall be listed as an additional insured without any disclaimers on Sub-recipient’s comprehensive general liability and Automobile Liability insurance policies. **14.5.** All policies shall be endorsed to provide that underwriters and insurance companies of Sub-recipient shall not have any right of subrogation against NHOEP, TRC, or each of their officers, directors and employees.

**15. WORKERS’ COMPENSATION.** **15.1** By signing this Agreement, the Sub-recipient agrees, certifies and warrants that the Sub-recipient and any Vendor is in compliance with or exempt from, the requirements of N.H. RSA chapter 281-A (“Workers’ Compensation”). **15.2** To the extent the Sub-recipient is subject to the requirements of N.H. RSA chapter

Sub-recipient Initials \_\_\_\_\_  
Date \_\_\_\_\_

281-A, Sub-recipient shall maintain, and require any Vendor, subcontractor or assignee to secure and maintain, payment of Workers' Compensation in connection with activities which the person proposes to undertake pursuant to this Agreement. Sub-recipient shall furnish the Contracting Officer identified in block 1.9, or his or her successor, proof of Workers' Compensation in the manner described in N.H. RSA chapter 281-A and any applicable renewal(s) thereof, which shall be attached and ~~be~~ incorporated herein by reference. TRC shall not be responsible for payment of any Workers' Compensation premiums or for any other claim or benefit for Sub-recipient, or any Vendor, subcontractor or employee of Sub-recipient, which might arise under applicable State of New Hampshire Workers' Compensation laws in connection with the performance of the Work under this Agreement.

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

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

**18. AMENDMENT.** This Agreement may be amended, waived or discharged only by an instrument in writing signed by the parties hereto and only after approval of such amendment, waiver or discharge by NHOEP and/or TRC.

**19. CONSTRUCTION OF AGREEMENT AND TERMS.**

This Agreement shall be construed in accordance with the laws of the State of New Hampshire, and is binding upon and inures to the benefit of the parties and their respective successors and assigns. The wording used in this Agreement

is the wording chosen by the parties to express their mutual intent, and no rule of construction shall be applied against or in favor of any party. If a conflict should arise between this Agreement and any Grant Applications or Form submissions described in the attached Exhibits, the terms of this Agreement shall govern.

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

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

**22. SPECIAL PROVISIONS.** Additional provisions set forth in the attached EXHIBIT C are incorporated herein by reference. All Federal requirements are subject to change and in any such event the Sub-recipient will be required to maintain compliance with the new Federal requirements upon notice from TRC.

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

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

**25. FLOWDOWN PROVISIONS.** Sub-recipient shall include in any subcontract with any Vendor engaged by Sub-recipient to provide services on projects eligible for ARRA grant funding the terms and conditions from this Agreement as indicated by TRC.

Sub-recipient Initials \_\_\_\_\_

Date \_\_\_\_\_



## NEW HAMPSHIRE ENERGY EFFICIENCY & CONSERVATION BLOCK GRANT AGREEMENT

### EXHIBIT A

#### Scope of Work

##### Definitions for Exhibit A

- a. The terminology used in Exhibit A is based on the federal government language used for the distribution of American Recovery and Reinvestment Act (ARRA) funds and the associated reporting requirements. Unless the context otherwise requires, the terms defined below shall have, for all purposes of this Agreement, the respective meanings set forth below, the following definitions to be equally applicable to both the singular and plural forms.
  - i. Town of New London, the Local Government Entity identified in block 1.3 on page one of the Agreement, shall be called "*Sub-recipient*."
  - ii. All service providers and/or contractors hired by the Sub-recipient to implement the project scope of work shall be called "*Vendor(s)*."
  - iii. All Agreements or contracts between the Sub-recipient and Vendor(s) shall be called "*Sub-contracts*"
- b. **Point of Service:** All required deliverables shall be addressed and sent to the following address:  
Tom Rooney, Sub-Grant Manager (TRC) Representative/Project Manager  
TRC Energy Services  
155 Fleet Street, Suite #305  
Portsmouth, NH 03801

- A. Project Description:** American Recovery and Reinvestment Act - Sub-grant Administration by Town of New London under the New Hampshire Energy Efficiency and Conservation Block Grant Program

##### 1) Project Category:

- Project #240: Building Energy Efficiency
- Project #265: Energy Studies & Energy Planning
- Project #266: Lighting Upgrades

##### 2) Points of Contact

###### Authorized Signatory:

Agreement signatures **must** come from each town's "mayor" per NH RSA 672:9. "*Mayor*" means the chief executive officer of the municipality, whether the official designation of the office is mayor of a city, city or town manager, the board of selectmen of a town, the board of commissioners of a village district, the county commissioners of a county in which there are located unincorporated towns or unorganized places, or any other title or any official designated in the municipal charter to perform the duties of "mayor." Agreement **must** be signed by an authorized representative of the municipality or county and **must** be supported by a certificate of vote verifying that the signatory has the authority to enter into an agreement on behalf of the municipality/county. Any discrepancy in the Agreement signatures will lead to a delay in the Agreement execution.

Full Name: \_\_\_\_\_

Title: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone: \_\_\_\_\_  
Email: \_\_\_\_\_

**Primary Project Contact/Project Manager:** Please specify project # for each contact, if different.

Full Name \_\_\_\_\_  
Title: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone: \_\_\_\_\_  
Email: \_\_\_\_\_

**3) Primary Place of Performance:**

**Project #240:**

Location Name: Kearsarge Regional High School  
Address: 457 North Road, North Sutton, NH 03260

**Project #265:**

Location Name: Elkins  
Address: 456 Elkins Road, Elkins, NH 03233

**Project #266:**

Location Name: New London Fire Department  
Address: 237 Main Street, New London, NH 03257

If the points of contact change during the term of this Agreement inform TRC immediately. Please submit **Agreement Form #1** included in Attachment II of this Agreement for each place(s) of performance. Please specify project # for each facility.

- B. Agreement Period:** The Agreement commences upon written notification from TRC and has a completion date of **March 10, 2012**. All funds must be expended by March 10, 2012. Failure to do so may result in termination of the Agreement. TRC at any time, in its sole discretion, may terminate the Agreement or postpone or delay all or any part of this Agreement, upon written notice.
- C. Objectives:** TRC awards a total of \$359,000 (project #240: \$335,000; project #265: \$15,000; project #266: \$9,000) to Town of New London to manage sub-grants as part of New Hampshire's Energy Efficiency and Conservation Block Grant Program (EECBG).

Town of New London shall:

- Implement energy conservation measures, as described in Section D of Exhibit A/ Attachment I
- Maintain compliance, and require each Vendor(s) to comply with all the ARRA Special Provisions as mentioned in Exhibit C, which may change at a later date
- Collect and report upon jobs created and retained, hours worked, energy saved, emissions reduced, funds leveraged and other project specific information, as outlined in Section D under Reporting Requirements

**D. a) Scope of Work:** The Sub-recipient agrees to complete the following:

1. Brief summary of Project #240: Comprehensive Energy Efficiency and HVAC improvements  
Brief summary of Project #265: Study on development of off-grid, net-metered and community power hydro projects  
Brief summary of Project #266: Lighting retrofit at town buildings

The Sub-recipient shall complete the project with quantities and products, services and obligations as described and identified in detail in Attachment I

The project shall be implemented with all products as specified, or equivalent, provided all equivalent replacements comply with all Terms and Conditions of this Agreement which must be submitted to and approved by the TRC Project Manager. Utilization of equivalent replacements without prior written approval from TRC may result in the withholding of future payments, suspension, or termination of the current award, and withholding of future awards.

2. If the Work, schedule, or budget changes at any time, the Sub-recipient must contact the TRC Project Manager immediately in writing identifying such changes. Changes in Work, schedule, or budget may change the amount of funds awarded as identified in block 1.8 on page one of the Agreement. Any costs incurred by the Sub-recipient above the Price Limitation shall not be subject to reimbursement unless written acceptance has been received from the TRC Project Manager.

**b) Projected Energy Conservation**

Based on the above Work and calculations provided in the Grant Application submitted to TRC/NHOEP on or before February 16<sup>th</sup>, 2010, the Sub-recipient projects an amount of energy savings as follows:

Projected annual energy savings	Project #240: 6,231 MMBTU
	Project #265: NA
	Project #266: 536 MMBTU

Any changes in the Work, either additions or reductions, will change the projected savings mentioned above. Any changes in the Work and the revised projected annual source energy savings must be submitted to TRC when the Sub-recipient identifies any changes in the Work as identified above in (D)(a) 4. Projected energy savings were a key factor in selecting EECBG projects for funding. For this reason, please ensure that the revised projected energy savings are as accurate as possible. TRC will verify these savings during the post-implementation measurement and verification as described in Section F (b) before funding the completed projects.

**c) Project(s) Schedule**

The Sub-recipient shall provide TRC with the Project(s) Schedule, including anticipated start date, completion date, and target dates for each Project Milestone within 2 months of the receipt of the Approval Notice from TRC. Sub-recipient must use **Agreement Form #2** included in Attachment II of this Agreement for submitting the Project Schedule. Project start date is contingent upon receipt of a written Agreement Approval Notice from TRC.

**d) Benchmarking the Place(s) of Performance**

The Sub-recipient is required to benchmark all the facilities that will be retrofitted, upgraded or involved in projects funded through the NH EECBG program. If the project involves multiple locations then all locations must be benchmarked individually. For benchmarking, the Sub-recipient must *only* use Environmental Protection Agency's (EPA's) Portfolio Manager at [www.energystar.gov/istar/pmpam/](http://www.energystar.gov/istar/pmpam/)

The EPA ENERGY STAR® Portfolio Manager is a free, web-based, evaluation tool that compares a building's energy use with similar buildings nationwide, and tracks a building's energy use over time. If the Project has unsupported building types, input the data into the EPA ENERGY STAR® Portfolio Manager as best as possible. Even without a score, this is a valuable tool for tracking the building's energy use. The Sub-recipient must generate a *Statement of Energy Performance* (available after completion of Benchmarking on the EPA

Portfolio Manager website) and submit it to TRC. *Please take double side prints if possible.* Sub-recipient must provide TRC with your EPA Portfolio Manager login details by filling out **Agreement Form #8** included in Attachment II of this Agreement. TRC also requires the Sub-recipients to benchmark the facilities after the project implementation in order to identify the success of the EECBG program. This should be done using utility data for a 12 month period starting upon Final Payment.

**e) EECBG Reporting Requirements**

The main goals of the grant process are maintaining the transparency and accountability of the EECBG program funds. In order to achieve these goals, OMB and DOE will monitor the return on investment of the EECBG funds in terms of the jobs created and energy saved through each funded project. Pursuant to these objectives, Federal Recovery programs have new reporting requirements. By signing this agreement with TRC, the Sub-recipient agrees to timely submit all data for maintaining strict compliance with all the Federal requirements according to timeframe mentioned below. All data must be submitted to TRC for:

- 1) Quarterly and monthly reporting of required data to Office of Management and Budget (OMB)
- 2) Quarterly and monthly reporting of data to DOE

**i) Reporting Timeframe:**

NH EECBG Sub-recipient's **must** submit all Federal required reporting data through the 25<sup>th</sup> of each month by the **30<sup>th</sup> of the month**. *For example, the Sub-recipient will submit reporting data for April 25<sup>th</sup> through May 25<sup>th</sup> on or before May 30<sup>th</sup>.* All data must be submitted to TRC via email to Vibhuti Agarwal at [vagarwal@trcsolutions.com](mailto:vagarwal@trcsolutions.com). If the Sub-recipient has any issues submitting the monthly reporting data electronically, contact TRC.

**ii) Required Reporting Data Elements and Metrics**

For reporting data to OMB & DOE, Sub-recipients will submit all data elements as specified in the **Agreement Form #5** included in Attachment II of the Agreement to TRC by the **30<sup>th</sup> of each month**. All reporting data must be submitted in the format provided in **Agreement Form #5 only**. Failure to comply with the Federal reporting requirements is considered a material noncompliance with the terms of the award. Noncompliance may result in withholding of future payments, suspension, or termination of the current award, and withholding of future awards.

**E. Vendor Contracts**

All contracts between Sub-recipient and Vendors shall be executed only after the Agreement execution between TRC and the Sub-recipient has been completed. The contracts between the Sub-recipient and the Vendors are subject to review by TRC. TRC reserves the right to request a copy of all contracts between the Sub-recipient and the Vendors at any time. Contracts will be reviewed with respect to inclusion of specific federal requirements, including but not limited to, the Davis–Bacon Act clause, the Buy American Act clause, the National Environmental Policy Act clause, and National Historic Preservation Act. Sub-recipients are also required to include the appropriate Davis Bacon Act Labor Classifications and Wage Rates in all Vendor Sub-contracts. For details, please see Exhibit C- Davis Bacon Act Requirements

TRC will not be responsible for developing or issuing any RFPs on the awardees' behalf. The Sub-recipient is required to sign **Agreement Form #4** included in Attachment II of the Agreement and attest that the Sub-recipient will include all federal requirements in each Vendor sub-contract as included in Exhibit C.

Sub-recipients are required to follow all Procurement standards per 10 CFR 600.236. <http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=1d87da29f6087f0251f78954c8888ff1&rgn=div8&view=text&node=10:4.0.1.3.9.3.20.23&idno=10> before sending out bids or request proposals from Vendors. Failure to follow these requirements may postpone payments to Sub-recipients or termination of this Agreement.

The Sub-recipient agrees to advertise any Sub-contract opportunity arising from this Agreement to be paid for with American Recovery and Reinvestment Act funds on the State of New Hampshire, Department of Administrative Services "Bidding Opportunities" web site, by completing a bid description form available at: [http://www.sunspot.admin.state.nh.us/statecontracting/Documents/bid\\_form.doc](http://www.sunspot.admin.state.nh.us/statecontracting/Documents/bid_form.doc) submitting the form to [purchweb@nh.gov](mailto:purchweb@nh.gov) and copy Vibhuti Agarwal at [VAgarwal@trcsolutions.com](mailto:VAgarwal@trcsolutions.com) on that email. For easy identification, please use the format "<Town Name>- EECBG Bid Form Submission" as the email subject.

## F. Measurement and Verification

### a) Pre-Implementation Requirements:

TRC shall have the right to and will inform the Sub-recipient if TRC will conduct a site inspection prior to the start of the Work. If a site inspection is to be held, TRC will notify the Sub-recipient along with the Agreement Approval Notice.

- i. **Pre-Implementation Site Inspection:** The Office of the Governor/ Office of Economic Stimulus / DOE/ NHOEP/ TRC reserve the right to conduct a Pre-Implementation Site Inspection before the project begins. Sub-recipient staff shall arrange access to inspect all project locations at reasonable times for the intended inspectors. The pre-inspection will verify the project measures which are included in Section D (a) (1) under the category mentioned in Section A (1). Pre-inspections may include others areas that may impact the projected energy savings, Section D (b).
  - ii. **Pre-Implementation Buy American Review:** The Sub-recipient shall provide TRC with documentation indicating the place of manufacture or final assembly of the significant equipment used in the project, and any individual material component if it represents 25% or more of the total material costs of the project prior to equipment installation in order to avoid potential Buy American noncompliance issues.
  - iii. **Pre-Implementation NEPA Review:** Sub-recipients shall coordinate with TRC and provide any documentation or information necessary to comply with the National Environmental Policy Act (NEPA) and the State Environmental Quality Review Act.
  - iv. **Pre-Implementation NHPA Review:** Sub-recipients shall coordinate with TRC and provide all documentation or information necessary to comply with National Historical Preservation Act (NHPA). Cooperate with TRC to maintain compliance with Section 106 requirements. Section 106 of the National Historic Preservation Act (NHPA), applies to historic properties that are listed in or eligible for listing in the National Register of Historic Places. For compliance with Section 106, the Sub-recipients facilities may require a review by the NH State Historic Preservation Office (SHPO). By signing this agreement, the Sub-recipient agrees to inform TRC immediately if the Sub-recipient identifies that any location/ buildings involved in the Work implementation may require review by the NH SHPO
  - v. **Pre-Implementation DHR Review:** Sub-recipients shall coordinate with TRC and provide all documentation or information necessary to be in full compliance with NH Division of Historic Resources Requirements.
  - vi. **Metering requirement:** Since Option A of the International Protocol will be used, no actual monitoring of kW, amps, hours-of-use or utility data will be used to determine final energy savings for this project. The energy analysis associated with Option A will be used to determine the energy usage and savings, along with additional calculations, and site inspection data performed or collected by TRC to ensure proper assumptions for systems have been accounted for. The energy savings for this project will be based only on these engineering calculations, pre-installation inspection, and post-installation inspection. The measurement and verification for this project follows *International Performance Measurement and Verification Protocol, Option A*.
  - vii. **Inventory of Equipment:** Surveys may be conducted to document existing (baseline) equipment, including, but not limited to, lighting, thermostats, HVAC systems and controls at the project sites. These may be checked during the pre- installation inspection and compared against the application that was submitted.
  - viii. **Pre-implementation Energy Use Data:** Sub-recipient must submit pre-implementation energy use data of all facilities involved in this Agreement to TRC, prior to project commencement. This data shall include monthly energy use and cost information for electricity and all heating fuels for 12 months, not to exceed 16 months prior to start of work, for each facility or non-facility integrated assets that are affected. Sub-recipient shall also provide monthly peak demand (in kW) for that 12-month period as applicable. This requirement can be completed by submitting *Statement of Energy Performance* as mentioned in Section D (d). In addition to this, the Sub-recipient must also provide TRC complete access to all energy use data by submitting **Agreement Form #3** as included in Attachment II of the Agreement along with the signed Agreement.
  - ix. **Tax-Exempt forms:** The Sub-recipient is required to provide TRC with the Local Government Entity's Tax-exempt certificate or W-9 form as applicable. Please see <http://www.irs.gov/govt/fslg/article/0,,id=112708,00.html> for further information and directions.
- b) **Post-Implementation Requirements:** Completion of all the following items is required for the Sub-Recipient to receive payment for the Milestones mentioned in Exhibit B, as applicable
- i. **Certificate of Completion:** Sub-recipient shall complete and submit the Certificate of Completion form (Will be provided by TRC when required).

- ii. **Cost Data:** Sub-recipient shall submit original invoices, as applicable, of equipment purchase order receipts, a signed bill of lading, manufacture cut sheets and other documentation for all installed products to document the products purchased, technical specifications, cost of the project (including labor and materials) and the number and types of equipment installed.
  - iii. **Post-Implementation Site Inspection:** Following project completion, the Office of the Governor/ Office of Economic Stimulus / DOE/ OEP/ TRC reserve the right to conduct a Post-Implementation Site Inspection. If required, Sub-recipient staff shall arrange access to inspect each project location and all installed equipment at reasonable times for the intended inspectors.
  - iv. The post-inspection data will be compared to the pre-inspection data to verify projected energy savings using the general principles of the *International Performance Measurement and Verification Protocol, Option A*.
  - v. **Post-Implementation Energy Use Data:** In order to assist TRC track your building's energy performance and determine the success of the EECBG program, you are required to perform post-implementation benchmarking of all the facilities involved in this Agreement using EPA's Portfolio Manager. For post-implementation benchmarking the data used should be for a 12-month period starting upon Final Payment and the resultant Statement(s) of Energy Performance must be submitted within 15 months of the date of project completion.
  - vi. **Waste Management Plan:** Sub-Recipient shall provide to TRC a waste management plan addressing waste generated by each proposed Project prior to receiving funding for the Project. This waste management plan shall describe the plan to dispose of any sanitary or hazardous waste (e.g., construction and demolition debris, old light bulbs, lead ballasts, lead paint, piping, roofing material, discarded equipment, debris, and asbestos) generated as a result of the proposed Project. TRC will make the waste management plan and related documentation available to OEP/DOE on request. TRC reserves the right to ensure that the Project complies with all Federal, state and local regulations for waste disposal.
- c) **Calculations and Adjustments:** All energy savings and renewable energy calculations must follow standard engineering practices. Sub-recipient is responsible for revising calculations based on any changes that arise during construction.
- d) **Assumptions:** The components of Measurement & Verification as included in Section F is based on the following assumptions:
- i. The Sub-recipient will inform TRC of any major building projects, such as building additions, or changes in the scope of the Work mentioned in Section D (a)(1) which would significantly alter the current occupancy rate or schedule may take place.
  - ii. The typical operation of the systems, including outside air usage, run-times, power draw, return air, space types served and schedules will be checked during the review of the project and while on site, if applicable.
  - iii. Controls of existing equipment will be verified during on-site inspections, if applicable.

**G. Responsibilities/Deliverables:**

The Sub-recipient shall deliver the following:

- i. Completed monthly Federal Reporting (**Agreement Form #5**) forms for each project(s) due to TRC on the 30<sup>th</sup> of every month as described in Section D(e) (i) & (ii);
- ii. Post- Implementation requirements (see Section F (b) of Exhibit A) due to TRC upon project completion on or before March 10, 2012
- iii. The Tax Exempt or W-9 form and all Agreement forms attached to this agreement as required. A checklist with deadlines for submission of the forms is included in the checklist.
- iv. Any other reports or documents determined by TRC to be necessary and appropriate toward maintaining the intent of the New Hampshire EECBG program
- v. *In addition to the tasks and deliverables delineated within this Agreement, the Sub-recipient shall be responsible for delivering any products, services and obligations that were described within the following document incorporated herein by reference as if fully set forth herein:*  
*Document titled – Grant Application, American Recovery and Reinvestment Act, Energy Efficiency and Conservation Block Grant Program - as submitted to OEP on or before February 16<sup>th</sup>, 2010.*

**H. Overview of the Federal requirements:**

- i. As part of compliance with federal requirements for projects receiving ARRA funding, special terms and conditions apply. Sub-recipients must comply with all monthly and quarterly federal reporting as requested by TRC. Sub-recipients are responsible for ensuring all Vendors comply with Davis-Bacon prevailing wage

requirements and Buy American requirements, among other requirements. Sub-recipients may be audited by TRC, State and Federal agencies for compliance with these requirements. Please refer Exhibit C for complete information on Federal Requirements. A guidance document will be provided by TRC which will include an overview of the reporting requirements by the Sub-recipient.

ii. The Sub-recipient shall provide all monthly reporting information on prescribed forms within the timeframe mentioned by TRC.

I. The Sub-recipient agrees to:

- Have an OMB Circular A-133 audit performed in any fiscal year in which it receives more than \$500,000 in federal funding; the Sub-recipient shall insure that any Vendors and/or Partners receiving in excess of \$500,000 in a fiscal year shall be subject to an A-133 agreement if required;
- Where the Sub-recipient is not subject to the requirements of OMB Circular A-133, the Sub-recipient shall submit to TRC two copies of an audited financial report, within 90 days after the end of each fiscal year. Said audit shall be conducted utilizing the guidelines set forth in "Standards for Audit of Governmental Organizations, Programs, Activities and Functions" by the Comptroller of the United States; and
- Ensure that reasonable access is provided to NHOEP and TRC, the New Hampshire Office of Economic Stimulus, DOE, and the Federal Office of Management and Budget for all administrators, Vendors, facilities, worksites, employees of the Sub-recipient, financial or other records, and assistance to ensure the safety and convenience for the performance of site visits and evaluations.

*All elements of this Work are subject to OEP/TRC oversight. OEP/TRC reserves the right to alter the Work if said alterations are determined by OEP/TRC to be necessary and appropriate toward maintaining the intent of the New Hampshire EECBG program. TRC will work with the Sub-recipient to address budgetary and other related considerations concerning any changes to the Work.*

*All materials and information generated through the implementation of this program shall be the property of the Office of the Governor/ Office of Economic Stimulus / DOE/ OEP/ TRC.*

**J. State and Federal Compliance:** The Sub-recipient shall agree to manage its activities and the activities of all Vendors in adherence with all elements of the following documents, policies and laws:

- Energy Independence and Securities Act of 2007;
- 2009 Financial Assistance Funding Opportunity Announcement DE-FOA-0000013: "Recovery Act – Energy Efficiency and Conservation Block Grants – Formula Grants" and all associated amendments;
- The Copeland "Anti Kickback" Act, as amended (118 USC 874) as supplemented in Department of Labor regulations (41 CFR Chapter 60);
- Labor Standards. Davis Bacon Act, as amended (40 USC 276a 276a 7), the Contract Work Hours and Safety Standards Act (40 USC 327 333);
- The Flood Disaster Protection Act of 1973 (PL 93 234), as amended, regulations issued pursuant to that act, and Executive Order 11985;
- The National Environmental Policy Act of 1969 (PL 90 190); the National Historic Preservation Act of 1966 (80 Stat 915, 116 USC 470); and Executive Order No. 11593 of May 31, 1971, as specified in 24 CFR 58;
- The Clean Air Act, as Amended, 42 USC 1857 et seq., the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq. and the regulations of the Environmental Protection Agency with respect thereto, at 40 CFR Part 15, as amended from time to time;
- The NH State Energy Code (RSA 155 D);
- The NH State Life Safety Code (RSA 155:1) and rules of the NH State Fire Marshal;
- The American Recovery and Reinvestment Act of 2009, Public Law 111-5 ("Recovery Act" or "Act") and applicable standards, rules orders, regulations and guidelines issued pursuant thereto, as amended from time to time and detailed in Exhibit C of this Agreement; and
- Any other state, federal or local regulations that pertain to any activities associated with the management and implementation of the program.

*Waivers or permits for any project that requires them will be the responsibility of the Sub-recipient in consultation with TRC and OEP.*

## **K. Records and Accounts**

During the performance of the Project Activities and for a period of three (3) years after the Completion Date or the date of the final audit approval by TRC, whichever is later, the Sub-recipient shall keep, and shall require any Vendor, Partner and Business to keep, the following records and accounts:

- i. Records of Direct Work: Detailed records of all direct work performed by its personnel under this Agreement;
- ii. Fiscal Records: Books, records, documents and other statistical data evidencing, and permitting a determination to be made by TRC of all project costs and other expenses incurred by the Sub-recipient and all income received or collected by the Sub-recipient, during the performance of the project activities. The said records shall be maintained in accordance with generally acceptable accounting procedures and practices, and which sufficiently and properly reflect all such costs and expenses, and shall include, without limitation, all ledgers, books, audits, records and original evidence of costs such as purchase requisitions and orders, invoices, vouchers, bills, requisitions for materials, inventories, valuations of in kind contributions, labor time cards, payrolls and other records requested or required by the Office of the Governor/ Office of Economic Stimulus / DOE/ OEP/ TRC.
- iii. Sub-recipient and Vendor Records: The Sub-recipient shall, and where applicable, Business and Partner shall, establish, maintain and preserve, and require each of its Vendors to establish, maintain and preserve property management, project performance, financial management and reporting documents and systems, and such other books, records, and other data pertinent to the project as the OEP may require. The Sub-recipient shall retain such records for a period of three (3) years following completion of the project and receipt of final payment.

This Agreement consists of the following documents which are all incorporated herein by reference as if fully set forth herein:

- Attachment I – EECBG Grant Application submitted to OEP
- Attachment II – Agreement Forms to be completed and submitted to TRC

New Hampshire Energy Efficiency and Conservation Block Grant (EECBG) Program Sub-grants  
Sponsored by the Department of Energy (DOE) through the Office of Energy and Planning (OEP)  
Agreement between TRC Environmental Corporation and Town of New London  
DOE Award # DE-EE0000668; CFDA # 81.128



## EXHIBIT B

### Agreement Price, Terms and Methods and Conditions of Payment

#### 1. AGREEMENT PRICE

In consideration of the satisfactory performance by the Sub-recipient, TRC agrees to pay the Agreement price not to exceed \$359,000 (project #240: \$335,000; project #265: \$15,000; project #265: \$9,000), which is hereinafter referred to as the "Price Limitation." It is understood and agreed by the parties hereto that payment of the Price Limitation shall constitute full and complete payment for the performance of the Work tasks and all expenses of any kind related to the Work as specified in Exhibit A.

#### 2. LIMITATIONS ON USE OF FUNDS

Funds for this program are to be used in a manner consistent with the American Recovery and Reinvestment Act and the Energy Efficiency and Conservation Block Grant program as approved by the U.S. DOE, OEP and TRC. At any time during the performance of the Project Activities, and upon receipt of any reports the Office of the Governor/ Office of Economic Stimulus / DOE/ OEP/ TRC may review all Project Costs incurred by the Sub-recipient or any Vendor, Business or Partner and all payments made to date. Upon such review, TRC shall disallow any items of expense, which are not determined to be allowable or are determined to be in excess of actual expenditures, and shall, by written notice specifying the disallowed expenditures, inform the Sub-recipient of any such disallowance. If TRC disallows costs for which payment has not yet been made, it shall refuse to pay such costs. If payment has been made with respect to costs that are subsequently disallowed, TRC may deduct the amount of disallowed costs from any future payments under this Agreement or require that the Sub-recipient refund to TRC the amount of the disallowed costs. Such refund shall be made within 30 days of Sub-recipients receipt of TRC's notice of disallowed costs.

#### 3. PROGRESS PAYMENT OF AWARDS

The payments shall be made in two installments for approved expenditures to be incurred by the Sub-recipient. Throughout the duration of the Agreement, TRC shall approve all expenditures that coincide with the Sub-recipient's requested fund amount as well as OEP and TRC approved payments of sub-grant funds to communities. Said expenses and payments shall be reported to TRC through itemized invoices. All obligations of TRC, including the continuance of any payments, are contingent upon the availability and continued appropriation of funds for the services to be provided. The Sub-recipient shall meet all requirements of the federal OMB Circular A-87 and shall have supplied to TRC all other required documentation as identified under this Agreement.

#	Milestone	Amount (% of Total)	Deliverables
1	At equipment delivery and/or up to 50% expenditure of awarded funds	Up to 50% of the funds awarded	<ul style="list-style-type: none"> <li>• Request for Payment #1 (Agreement Form #6)</li> <li>• Waste Management Plan (Section F(b)(vi))</li> <li>• Cost Data (Section (F(b)(ii))</li> </ul> Note: Project may receive a Site Inspection prior to receiving payment (Section F(b)(iii))
2	At 100% project completion	100% of the remaining funds awarded	<ul style="list-style-type: none"> <li>• Request for Payment #2(Agreement Form #7)</li> <li>• Certificate of Completion (Section F(b)(i))</li> <li>• Cost Data (Section F(b)(ii))</li> <li>• Copies of all necessary permits, approvals and certificates from all authorities having jurisdiction</li> <li>• Pre-Implementation Energy Use Data (Section F(a))</li> </ul> Note: Project may receive a Post-Implementation Site Inspection prior to receiving payment (Section F(b)(iii))

**4. METHOD OF PAYMENT OF THE AWARD:**

The payments will be made to the Sub-recipient and sent to the entity and address as specified in Block 1.3 and 1.4 respectively on page one of the Agreement. TRC intends to process payment requests promptly. Grant checks/payments shall be issued within eight (8) weeks of receiving a properly completed Request for Payment Form from the Sub-recipient, in accordance with Section 4 of General Provisions of the Agreement between TRC and Sub-Recipient. Please note that incomplete and/or inaccurate Request(s) for Payment forms may delay issuance of grant checks. Payments for incomplete projects or partial payments will not be made. Payments to the Sub-recipient for its sub-grant funds/award will be deposited into a non-interest bearing account. Sub-recipient must inform TRC immediately in the event of any change of address of information provided on page one of the Agreement.





May, 2010

**Exhibit C - Special Provisions**  
**American Recovery and Reinvestment Act Standard Terms:**  
**Energy Efficiency and Conservation Block Grant Program**

Notwithstanding any provision of this Agreement to the contrary, the following terms and conditions shall govern and take precedence over any conflicting provision in this Agreement.

1. The Sub-recipient shall obtain a DUNS number ([www.dnb.com](http://www.dnb.com)), and register with the Central Contractor Registry (CCR, [www.ccr.gov](http://www.ccr.gov)). The Sub-recipient shall require any Vendor(s) to obtain a DUNS number.

The Sub-recipient agrees to advertise any Sub-contract opportunity arising from this Agreement to be paid for with American Recovery and Reinvestment Act funds on the State of New Hampshire, Department of Administrative Services "Bidding Opportunities" web site, by completing a bid description form available at: [http://www.sunspot.admin.state.nh.us/statecontracting/Documents/bid\\_form.doc](http://www.sunspot.admin.state.nh.us/statecontracting/Documents/bid_form.doc) and submitting the form to [purchweb@nh.gov](mailto:purchweb@nh.gov) and copy Vibhuti Agarwal ([VAgarwal@trcsolutions.com](mailto:VAgarwal@trcsolutions.com)) at TRC on that email. The bid description forms may also be obtained in person from the Office of Economic Stimulus.

2. The Sub-recipient, upon entering into any sub-contract to be paid for with American Recovery and Reinvestment Act funds received through this Agreement/grant for the purpose of carrying out this Agreement, agrees to provide the TRC Contracting Officer/Project Manager for transmission to NHOEP and the Office of Economic Stimulus redacted PDF or paper copies of the executed Sub-contracts upon request. TRC will inform if a copy must be submitted by OES directly. The copies provided shall have any proprietary or non-public information, the disclosure of which would constitute an invasion of privacy, redacted. All agreements/contracts to individuals and those for amounts of less than \$25,000 shall be reported in the aggregate by written narrative in a manner that protects the privacy interests of any individual recipient. The written narrative shall include the purpose of the Sub-contract(s), the aggregate amount of the Sub-contract(s), and an estimate of the jobs created and the jobs retained by job type, if any, as a result of the Sub-contract(s). All Agreements awarded using American Recovery and Reinvestment Act funds will be posted on the NH Recovery web site and may be posted on the federal Recovery.gov web site.
3. The Sub-recipient shall comply, and require any Vendor(s) to comply with all applicable statutes, laws, regulations, and orders of federal, state, county or municipal authorities which shall impose any obligation or duty upon the Sub-recipient and Vendor(s), including, but not limited to:
  - a. The Sub-recipient shall comply with, and shall require any Vendor(s) to comply with, applicable provisions of the American Recovery and Reinvestment Act (ARRA) of 2009, Public Law 111-5 ("ARRA"), and applicable federal, rules, orders, regulations and guidelines issued pursuant thereto, as amended from time to time, including, but not limited to:

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

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

### Definitions

For purposes of this clause, **“Covered Funds”** mean funds expended or obligated from appropriations under the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5. Covered Funds will have special accounting codes and will be identified as Recovery Act funds in the grant, cooperative agreement or TIA and/or modification using Recovery Act funds. Covered Funds must be reimbursed by March 10, 2012.

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

**“Sub-recipient”** means any entity that receives Recovery Act funds (including Recovery Act funds received through grant, loan, or contract) other than an individual and includes a State that receives Recovery Act Funds.

### Special Provisions

#### A. Flow Down Requirement

Sub-recipients must include these special terms and conditions in any Sub-contract.

#### B. Segregation of Costs

Sub-recipients must segregate the obligations and expenditures related to funding under the Recovery Act. Financial and accounting systems should be revised as necessary to segregate, track and maintain these funds apart and separate from other revenue streams. No part of the funds from the Recovery Act shall be commingled with any other funds or used for a purpose other than that of making payments for costs allowable for Recovery Act projects.

#### C. Prohibition on Use of Funds

None of the funds provided under this agreement derived from the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5 may be used by any State or local government, or any private entity, for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool.

#### D. Access to Records

With respect to each financial assistance agreement awarded utilizing at least some of the funds appropriated or otherwise made available by the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, any representative of an appropriate inspector general appointed under section 3 or 8G of the Inspector General Act of 1988 (5 U.S.C. App.) or of the Comptroller General is authorized –

- (1) to examine any records of the Sub-recipient, any of its Vendors, or any State or local agency administering such contract that pertain to, and involve transactions relation to, the Sub-contract; and
- (2) to interview any officer or employee of the Sub-recipient, Vendor(s) or agency regarding such transactions.

#### E. Publication

An application may contain technical data and other data, including trade secrets and/or privileged or confidential information, which the Sub-recipient does not want disclosed to the public or used by the Government for any purpose other than the application. To protect such data, the applicant should specifically identify each page including each line or paragraph thereof containing the data to be protected and mark the cover sheet of the application with the following Notice as well as referring to the Notice on each page to which the Notice applies:

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

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

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

#### F. Protecting State and Local Government and Contractor Whistleblowers.

The requirements of Section 1553 of the Act are summarized below. They include, but are not limited to:

**Prohibition on Reprisals:** An employee of any Non-Federal employer receiving covered funds under the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing, including a disclosure made in the ordinary course of an employee's duties, to the Accountability and Transparency Board, an inspector general, the Comptroller General, a member of Congress, a State or Federal regulatory or law enforcement Agency, a person with supervisory authority over the employee or other person working for the employer who has the authority to investigate, discover or terminate misconduct, a court or grant jury, the head of a Federal agency, or their representatives information that the employee believes is evidence of:

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

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

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

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

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

#### G. False Claims Act

Sub-recipients shall promptly refer to TRC/NHOEP/DOE or other appropriate Inspector General any credible evidence that a principal, employee, agent, contractor, Vendor(s) or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity or similar misconduct involving those funds.

#### H. Information in supporting of Recovery Act Reporting

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

#### I. Availability of Funds

Funds appropriated under the Recovery Act and obligated to this award are available for reimbursement of costs until March 10, 2012.

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

ARRA imposes transparency, oversight and accountability requirements, including, without limitation, the reporting requirements in the Jobs Accountability Act in Section 1512.

Definitions: As used in this Section 1512 reporting clause, the following terms have the meaning set forth below:

**Agreement:** means a mutually binding legal relationship obligating the seller to furnish the supplies or services (including construction) and the buyer to pay for them. It includes all types of commitments that obligate the Government to an expenditure of appropriated funds and that, except as otherwise authorized, are in writing. In addition to bilateral instruments, Agreements include (but are not limited to) awards and notices of awards; letter Agreements; orders, such as purchase orders, under which the Agreement becomes effective by written acceptance or performance; and bilateral Agreement modifications, grants, and cooperative agreements.

**First-tier Sub-contract:** means a Sub-contract awarded directly by a Sub-recipient whose agreement is funded by ARRA.

**Jobs created:** means an estimate of those new positions created and filled, or previously existing unfilled positions that are filled, as a result of funding by the American Recovery and Reinvestment Act of 2009 (Recovery Act). This definition covers Sub-recipient positions established in the United States and outlying areas (see definition in FAR 2.101). The number shall be expressed as "full-time equivalent" (FTE), calculated cumulatively as all hours worked divided by the total number of hours in a full-time schedule, as defined by the Sub-Grant Manager/Sub-recipient. For instance, two full-time employees and one part-time employee working half days would be reported as 2.5 FTE in each month.

**Jobs retained:** means an estimate of those previously existing filled positions that are retained as a result of funding by ARRA. This definition covers Sub-recipient positions established in the United States and outlying areas (see definition in FAR 2.101). The number shall be expressed as "full-time equivalent" (FTE), calculated cumulatively as all hours worked divided by the total number of hours in a full-time schedule, as defined by the Sub-Grant Manager/Sub-recipient. For instance, two full-time employees and one part-time employee working half days would be reported as 2.5 FTE in each month.

All jobs created (FTEs) added to all jobs retained (FTEs) should equal the total jobs (FTEs) being paid for with the ARRA Agreement/grant funds received pursuant to this Agreement by the Sub-recipient. Stated otherwise, all jobs (FTEs) being paid for with funds provided by this Agreement minus all jobs created (FTEs) should equal all jobs retained (FTEs). A job cannot be reported as both created and retained.

**Number of Jobs:** This is based on a simple calculation used to avoid overstating the number of other than full-time permanent jobs. This calculation converts part-time or temporary jobs into fractional "full-time equivalent" (FTE) jobs. *Full-time equivalent (FTE) employment* is a standard concept used by the Office of Personnel Management. In order to perform the calculation, a Sub-recipient will need the total number of hours worked by employees in the most recent quarter (the quarter being reported) in jobs that meet the definition of a job created or a job retained as defined above. The Sub-recipient will also need the number of

hours in a full-time schedule for the quarter. For instance, if a full-time schedule is 2,080 hours/year, the number of hours in a full-time schedule for a quarter is 520 (2,080 hours/4 quarters = 520). The formula for reporting FTE can be represented as:

Total Number of Hours Worked and Funded by Recovery Act within Reporting Quarter  
Quarterly Hours in a Full-Time Schedule

**Total compensation:** means the cash and noncash dollar value earned by the executive during the Sub-recipient's past fiscal year of the following (for more information see 17 CFR 229.402(c) (2)):

- (1) Salary and bonus.
- (2) Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.
- (3) Earnings for services under non-equity incentive plans. Does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.
- (4) Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.
- (5) Above-market earnings on deferred compensation, which is not tax-qualified.
- (6) Other compensation. For example, severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property if the value for the executive exceeds \$10,000.

The Sub-recipient shall provide the data needed for Section 1512 reporting monthly in the format defined by the Sub-Grant Manager. The report format may be changed over time if the federal government issues guidance or establishes requirements for a different format.

Section 1512, at a minimum, requires the following data from the Sub-recipient:

- (1) An evaluation of the completion status of the project or activity;
- (2) An estimate of the number of jobs created by the project or activity by job type;
- (3) An estimate of the number of jobs retained by the project or activity by job type;
- (4) Total hours of employees working on the project or activity (subtotal by jobs created and existing jobs);
- (5) Total wages for employees working on the project or activity (subtotal by jobs created and existing jobs);
- (6) For infrastructure investments made by State and local governments, the purpose, total cost, and rationale of the agency for funding the infrastructure investment with funds made available under this Act, and name of the contact person if there are concerns with the infrastructure investment; and
- (7) Detailed information on any Sub-contracts awarded by the Sub-recipient to include the data elements required to comply with the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282), allowing aggregate reporting on awards below \$25,000 or to individuals, as prescribed by the Director of the Office of Management and Budget.

The Sub-Recipient agrees to provide the following data required by the Federal Funding Accountability and Transparency Act, 31 U.S.C. 6101, for both the Sub-recipient and any Vendor(s):

- (1) The name of the entity receiving the award (must match the name used for establishing the entity's DUNS number and Contractor Central Registry);
- (2) The amount of the award;
- (3) Information on the award including transaction type, funding agency, the North American Industry Classification System code or Catalog of Federal Domestic Assistance Number (where applicable), program source, and an award title descriptive of the purpose of each funding action;
- (4) The location of the entity receiving the award and the primary location of performance under the award, including the city State, congressional district, and county;
- (5) The DUNS number and Central Contractor Registry numbers of the entity receiving the award and of the parent entity of the recipient, should the entity be owned by another entity; and
- (6) Any other relevant information specified by the Office of Management and Budget ("OMB").  
Currently no further information is being required by OMB.

This Agreement requires the Sub-recipient to provide products and/or services that are funded under the

American Recovery and Reinvestment Act of 2009 (Recovery Act). Section 1512(c) of the Recovery Act requires each Sub-recipient to report on its use of Recovery Act funds under this contract. These reports will be made available to the public.

The Sub-Recipient shall report the following additional information, to the Sub-grant manager or representative identified in this Agreement in an Excel spreadsheet or paper report in the form provided by TRC. TRC agrees to provide the Sub-recipient with a report form that has pre-filled the data elements known to TRC:

- (1) The Government contract and order number, as applicable;
- (2) The amount of Recovery Act funds invoiced by the Sub-recipient for the reporting period. A cumulative amount from all the reports submitted for this action will be maintained by TRC;
- (3) A list of all significant services performed or supplies delivered, including construction, for which the Sub-recipient invoiced in this calendar month;
- (4) Program or project title, if any;
- (5) A description of the overall purpose and expected outcomes or results of the Agreement, including significant deliverables and, if appropriate, associated units of measure;
- (6) An assessment of the Sub-recipient's progress towards the completion of the overall purpose and expected outcomes or results of the Agreement (i.e., not started, less than 50 percent completed, completed 50 percent or more, or fully completed). This covers the Agreement/grant (or portion thereof) funded by the Recovery Act;
- (7) A narrative description of the employment impact of work funded by the Recovery Act. This narrative should be cumulative for each calendar month and only address the impact on the Sub-recipient's workforce. At a minimum, the Sub-recipient shall provide:
  - (i) A brief description of the types of jobs created and jobs retained in the United States and outlying areas (see definition in FAR 2.101). This description may rely on job titles, broader labor categories, or the Sub-recipient's existing practice for describing jobs as long as the terms used are widely understood and describe the general nature of the work; and
  - (ii) An estimate of the number of jobs created by job type and a separate estimate of the number of jobs retained by job type, by the Sub-recipient and separately by any Vendor(s), in the United States and outlying areas. A job cannot be reported as both created and retained.
- (8) If the Sub-recipient meets the criteria set forth below, the names and total compensation of each of the five most highly compensated officers of the Sub-recipient for the calendar year in which the Agreement is awarded. This requirement applies only if:
  - (i) In the Sub-recipient's preceding fiscal year, the Sub-recipient received—
    - (A) 80 percent or more of its annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants) and cooperative agreements; and
    - (B) \$25,000,000 or more in annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants) and cooperative agreements; and
  - (ii) The public does not have access to information about the compensation of the senior executives 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.
- (9) For Sub-contracts valued at less than \$25,000 or any Sub-contracts awarded to an individual, or Sub-contracts awarded to a Vendor that in the previous tax year had gross income under \$300,000, the Sub-recipient shall only report the aggregate number of such first tier Sub-contracts awarded in the month and their aggregate total dollar amount.
- (10) For any first-tier Sub-contract funded in whole or in part under the Recovery Act, that is over \$25,000 and not subject to reporting under paragraph 9, the Sub-recipient shall require the Vendor to provide the information described in (i), (ix), (x), and (xi) below to the Sub-recipient for the purposes of the monthly report. The Sub-recipient shall advise the Vendor that the information will be made available to the public as required by section 1512 of the Recovery Act. The Sub-recipient shall provide detailed information on these first-tier Sub-contracts as follows:
  - (i) Unique identifier (DUNS Number) for the Vendor(s) receiving the award and for the Vendor's parent company, if the Vendor has a parent company;
  - (ii) Name of the Vendor;
  - (iii) Amount of the Vendor award;
  - (iv) Date of the Sub-contract award;
  - (v) The applicable North American Industry Classification System (NAICS) code;

- (vi) Funding agency;
  - (vii) A description of the products or services (including construction) being provided under the Sub-contract, including the overall purpose and expected outcomes or results of the Sub-contract;
  - (viii) Sub-contract number (the contract number assigned by the Sub-recipient);
  - (ix) Vendor's physical address including street address, city, state, and country. Also include the nine-digit zip code and congressional district if applicable;
  - (x) Sub-contract primary performance location including street address, city, state, and country. Also include the nine-digit zip code and congressional district if applicable;
  - (xi) If the Vendor meets the criteria set forth below, the names and total compensation of each of the Vendor's five most highly compensated officers, for the calendar year in which the Sub-contract is awarded. This requirement applies only if;
    - (A) In the Vendor's preceding fiscal year, the Vendor received:
      - (1) 80 percent or more of its annual gross revenues in Federal contracts (and subcontracts), loans, grants (and subgrants), and cooperative agreements; and
      - (2) \$25,000,000 or more in annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants), and cooperative agreements; and
    - (B) The public does not have access to information about the compensation of the senior executives 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;
- (11) The Sub-recipient shall require the Vendor to register with the federal government Central Contractor Registration (CCR) database at [www.ccr.gov](http://www.ccr.gov).
4. The Sub-recipient agrees to comply with the Emergency Economic Stabilization Act of 2008 requirements (as amended in Section 1608 of the Recovery Act), 12 U.S.C. 5217(b), which provide for the inclusion and utilization, to the maximum extent practicable, of minorities (as such term is defined in section 1204(c) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1811 note)) and women, and minority- and women-owned businesses (as such terms are defined in 12 U.S.C.1441a(r)(4) of this title), and individuals with disabilities and businesses owned by individuals with disabilities;
5. The Sub-recipient agrees to comply with the National Environmental Policy Act of 1969 (P.L. 91-190) requirements in Section 1609, including requirements for plans and projects to be reviewed and documented in accordance with those processes; and Executive Order 11514; notification of violating facilities pursuant to Executive Order 11738; protection of wetlands pursuant to Executive Order 11990 and State law; evaluation of flood hazards in floodplains in accordance with Executive Order 11988; assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 *et seq.*); conformity of Federal Actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 *et seq.*); protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205);
6. The Sub-recipient agrees to comply with all anti-discrimination and equal opportunity statutes, regulations, and Executive Orders that apply to the expenditure of funds under Federal contracts, grants, cooperative agreements, loans, and other forms of Federal assistance, and all State and federal anti-discrimination statutes including but not limited to: Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, or national origin; Title IX of the Education Amendments of 1972, (20 U.S.C. §§ 1681-1683 and 1685-1686), which prohibits discrimination on the basis of sex; Section 504 of the Rehabilitation Act of 1973 as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; the Age Discrimination Act of 1975 as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; the Drug Abuse Office and Treatment Act of 1972 (P.L.92-255), as amended, relating to nondiscrimination on the basis of drug abuse; the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§ 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 *et. seq.*), as amended, relating to nondiscrimination in the sale, rental or financing of housing; Executive Order 11246; any other nondiscrimination provisions in ARRA, and any program-specific statutes with anti-discrimination requirements; as well as generally applicable civil rights laws including, but not limited to, the Fair Credit Reporting Act, 15 U.S.C. § 1681 *et seq.*; the Americans With Disabilities Act, 42 U.S.C. § 12101 *et seq.*; Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e

*et seq.*, relating to employment rights and preventing employment discrimination; the Equal Educational Opportunities Act, 20 U.S.C. § 1703, prohibiting denial of an equal educational opportunity to an individual on account of his or her race, color, sex, or national origin; the Age Discrimination in Employment Act, 29 U.S.C. § 634, prohibiting age discrimination against persons 40 years of age or older; the Uniform Relocation Act, 42 U.S.C.A. § 4601 *et seq.*, establishing uniform policies to compensate people displaced from their homes or businesses by state and local government programs; and New Hampshire Revised Statutes Annotated Chapter 354-A, prohibiting certain discrimination in employment, in places of public accommodation and in housing accommodations.

7. The Sub-recipient agrees to comply with 40 U.S.C. §§ 3701, *et seq.*, Contract Work Hours and Safety Standards Act; 41 U.S.C. §§ 51–58, Anti-Kickback Act of 1986; 41 U.S.C. § 265 and 10 U.S.C. § 2409 relating to whistleblower protections; the Hatch Act, 5 U.S.C. §§1501-1508 and 7324-7328, which limits the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds; and the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§401 *et seq.*), which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
8. The Sub-recipient agrees to comply with 31 U.S.C. § 1352, relating to limitations on the use of appropriated funds to influence certain Federal contracts and New Hampshire Revised Statute Annotated 15:5 which prohibits to use of funds appropriated or granted under this Agreement for lobbying or electioneering.  
Limitations on the use of federal Grant or Agreement Funds for Lobbying:
  - a. The law prohibits Federal funds from being expended by the Sub-recipient or any lower tier sub-recipients/Vendors of a Federal contract, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence a Federal agency or Congress in connection with the awarding of any Federal contract, the making of any Federal grant or loan, or the entering into of any cooperative agreement. The extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan, or cooperative agreement is also covered.
  - b. Federal-aid Sub-recipients as well as lower tier Vendors are also subject to the lobbying prohibition.
  - c. To assure compliance, for any agreement or grant, including any sub-contract or award exceeding \$100,000 the Sub-recipient and Vendors must submit and update as required a “Disclosure of Lobbying Activities” form, (OMB Standard Form LLL), available at <http://www.nh.gov/recovery/library/index.htm>.
    1. During the agreement period, Sub-recipients and Vendors must file disclosure form (Standard Form LLL) at the end of each calendar year in which there occurs any event that requires disclosure or that materially affects the accuracy of the information contained in any previously filed disclosure form.
    2. Lower tier certifications should be maintained by the next tier above (i.e. Sub-recipients will keep the Vendor(s) certification on file, etc.)
    3. Standard Form LLL will be provided during contract execution for utilization during the required contract period.

Funds appropriated under the ARRA can, under certain circumstances, be used for grants to nonprofit organizations. However, grants cannot be awarded to a nonprofit organization classified by the Internal Revenue Service as a 501(c)(4) organization unless that organization certifies that it will not engage in lobbying activities, even with their own funds (see Section 18 of the Lobbying Disclosure Act, 2 U.S.C.A § 1611).
9. The Sub-recipient agrees to comply with The National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), Executive Order 11593 (identification and protection of historic properties) and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 *et seq.*); and related statutes, including requirements for plans and projects to be reviewed and documented in accordance with those processes.

## **HISTORIC PRESERVATION**

Prior to the expenditure of Federal funds to alter any structure or site, the Sub-recipient is required to comply with the requirements of Section 106 of the National Historic Preservation Act (NHPA), consistent with DOE's 2009 letter of delegation of authority regarding the NHPA. Section 106 applies to historic properties that are listed in or eligible for listing in the National Register of Historic Places. In order to fulfill the requirements of Section 106, Sub-recipients must inform TRC if the Sub-recipient identifies a need to contact the State Historic Preservation Officer (SHPO), and, if applicable, the Tribal Historic Preservation Officer (THPO), to coordinate the Section 106 review outlined in 36 CFR Part 800.

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

Sub-recipients should be aware that the TRC Contracting Officer will consider the Sub-recipient in compliance with Section 106 of the NHPA only after the Sub-recipient has submitted adequate background documentation to the TRC for transmission to SHPO/THPO for its review, and the SHPO/THPO has provided written concurrence to the Sub-recipient that it does not object to its Section 106 finding or determination. Sub-recipient shall provide a copy of this concurrence to the TRC Contracting Officer if necessary.

10. The Sub-recipient, and any Vendor, shall immediately refer to TRC for transmission to an appropriate inspector general within the U.S. Department of Energy (DOE), Office of the Inspector General, and to the Public Integrity Unit of the New Hampshire Attorney General's Office, any credible evidence that a principal, employee, Sub-recipient or Vendor, or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving those funds.

The Sub-recipient, and any Vendor agree to maintain at each worksite and location of work funded by this Agreement a poster describing how to report fraud, waste, or abuse of ARRA funds. A model poster for this purpose, which also incorporates the whistleblower notice requirements, is available at <http://www.nh.gov/recovery/>.

11. Any funding provided to the Sub-recipient pursuant to the Recovery Act that is supplemental to an existing grant is one-time funding.
12. The Recovery Act funds are not eligible for costs incurred prior to the date of obligation/agreement execution.
13. The Sub-recipient agrees to establish and maintain a proper accounting system in accordance with generally accepted accounting standards.

To maximize the transparency and accountability of funds authorized under ARRA as required by Congress and in accordance with 10 CFR 600 Subpart C "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments" and OMB A-102 Common Rules provisions, the Sub-recipient agree to maintain records that identify adequately the source and application of Recovery Act funds.

For Sub-recipients covered by the Single Audit Act Amendments of 1996 and OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations," Sub-recipients agree to separately identify the expenditures for Federal awards under the Recovery Act on the Schedule of Expenditures of Federal Awards (SEFA) and the Data Collection Form (SF-SAC) required by OMB Circular A-133. This shall be accomplished by identifying expenditures for Federal awards made under Recovery Act separately on the SEFA, and as separate rows under Item 9 of Part III on the SF-SAC by CFDA number, and inclusion of the prefix "ARRA-" in identifying the name of the Federal program on the SEFA and as the first characters in Item 9d of Part III on the SF-SAC.

Sub-recipients agree to require their Vendor(s) to include on their SEFA information to specifically identify Recovery Act funding similar to the requirements for the Sub-recipient SEFA described above. This information is needed to allow the Sub-grant Manager to properly monitor sub-recipient expenditure of ARRA funds as well as oversight by the Federal awarding agencies, Offices of Inspector General, the Government Accountability Office, the State of New

Hampshire and TRC.

Where applicable, Sub-recipients will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."

15. **Debarment.** The Sub-recipient by signing this Agreement certifies that the Sub-recipient, including all principals, is not currently under debarment or suspension and has not been under debarment or suspension within the past three years, as required by 49 CFR 29.510. The Sub-recipient agrees to notify the Sub-grant Manager within 30 days of being debarred or suspended from federal government contracts. The Sub-recipient also agrees to check the debarment status of all construction Vendors as a part of the Davis Bacon Act. The Sub-recipient should perform this check *prior* to getting into any agreements/sub-contracts with any Vendor(s).
16. The Sub-recipient certifies by entering into this Agreement that it has the institutional, managerial, and financial capability to ensure proper planning, management, and completion of the project described in this Agreement.
17. The Sub-recipient agrees to comply with the prohibitions on the giving of gifts to public officials established by RSA chapter 15-B.
18. The Sub-recipient agrees to post any job openings resulting from this Agreement on the Department of Employment Security NH Works Job Match System, available at <https://nhworksjobmatch.nhes.nh.gov/>.
19. The Sub-recipient shall cause the provisions of this Exhibit C of the Agreement to be inserted in all Sub-contracts for any work or project activities covered by this Agreement so that the provisions will be binding on each Vendor(s). The Sub-recipient shall take such action with respect to any Sub-contract as TRC, NHOEP, or, the United States, may direct as a means of enforcing such provisions, including without limitation, sanctions for noncompliance.

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## **Special Terms and Conditions for use in Agreements and**

### **RESOLUTION OF CONFLICTING CONDITIONS**

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

### **REBUDGETING AND RECOVERY OF INDIRECT COSTS - REIMBURSABLE INDIRECT COSTS AND FRINGE BENEFITS**

a. If actual allowable indirect costs are less than those budgeted and funded under the award, the Sub-recipient may use the difference to pay additional allowable direct costs during the project period. If at the completion of the award the Government's share of total allowable costs (i.e., direct and indirect), is less than the total costs reimbursed, you must refund the difference.

b. The Sub-recipients are expected to manage their indirect costs. DOE will not amend an award solely to provide additional funds for changes in indirect cost rates. DOE recognizes that the inability to obtain full reimbursement for indirect costs means the Sub-recipient must absorb the under recovery. Such under recovery may be allocated as part of the organization's required cost sharing.

### **USE OF PROGRAM INCOME - ADDITION**

If Sub-recipient earns program income during the project period as a result of this award, Sub-recipient may add the program income to the funds committed to the award and use it to further eligible project objectives.

### **STATEMENT OF FEDERAL STEWARDSHIP**

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

### **SITE VISITS**

Office of the Governor/ Office of Economic Stimulus / DOE/ OEP/ TRC have the right to make site visits at reasonable times to review project accomplishments and management control systems and to provide technical assistance, if required. The Sub-recipient must provide, and must require your Vendor(s) to provide, reasonable access to facilities, office space, resources, and assistance for the safety and convenience of the government representatives in the performance of their duties. All site visits and evaluations must be performed in a manner that does not unduly interfere with or delay the work.

### **REPORTING REQUIREMENTS**

a. Requirements. Failure to comply with the Federal reporting requirements is considered a material noncompliance with the terms of the award. Noncompliance may result in withholding of future payments, suspension, or termination of the current award, and withholding of future awards. A willful failure to perform, a history of failure to perform, or unsatisfactory performance of this and/or other financial assistance awards, may also result in a debarment action to preclude future awards by Federal agencies.

b. Restrictions. Reports submitted to the TRC/NHOEP/DOE Information Bridge must not contain any Protected Personal Identifiable Information (PII), limited rights data (proprietary data), classified information, information subject to export control classification, or other information not subject to release.

### **PUBLICATIONS**

a. The Sub-recipient is encouraged to publish or otherwise make publicly available the results of the work conducted under the award.

b. An acknowledgment of Federal support and a disclaimer must appear in the publication of any material, whether copyrighted or not, based on or developed under this project, as follows:

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

Disclaimer: "This report was prepared as an account of work sponsored by an agency of the United States Government. Neither the United States Government nor any agency thereof, nor any of their employees, makes any warranty, express or implied, or assumes any legal liability or responsibility for the accuracy, completeness, or usefulness of any information, apparatus, product, or process disclosed, or represents that

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

### **FEDERAL, STATE, AND MUNICIPAL REQUIREMENTS**

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

### **INTELLECTUAL PROPERTY PROVISIONS AND CONTACT INFORMATION**

a. A list of intellectual property provisions applicable to this award may be found at [http://www.gc.doe.gov/financial\\_assistance\\_awards.htm](http://www.gc.doe.gov/financial_assistance_awards.htm).

b. Questions regarding intellectual property matters should be referred to TRC for transmission to NHOEP, DOE Award Administrator and the Patent Counsel designated as the service provider for the DOE office that issued the award. The IP Service Providers List is found at [http://www.gc.doe.gov/documents/Intellectual\\_Property\\_\(IP\)\\_Service\\_Providers\\_for\\_Acquisition.pdf](http://www.gc.doe.gov/documents/Intellectual_Property_(IP)_Service_Providers_for_Acquisition.pdf)

### **From 10 CFR 600.236-Procurement**

(a) States. When procuring property and services under a grant, a State will follow the same policies and procedures it uses for procurements from its non-Federal funds. The State will ensure that every purchase order or other contract includes any clauses required by Federal statutes and executive orders and their implementing regulations. Other Sub-recipients and Vendors will follow paragraphs (b) through (i) in this section.

Note: 600.236 (i)-Contract provisions. A Sub-recipient's Sub-contracts MUST contain provisions in paragraph (i) of this section (1) through (13).10 CFR 600.236 <http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=1d87da29f6087f0251f78954c8888ff1&rgn=div8&view=text&node=10:4.0.1.3.9.3.20.23&idno=10>

### **From 10 CFR 600.237-Subgrants**

Retention and Access Requirements for Records <http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?type=simple;c=ecfr;cc=ecfr;sid=4c22613d54c8ee557f9dc9d6015ec1c9;idno=10;region=DIV1;q1=600.242;rgn=div8;view=text;node=10%3A4.0.1.3.9.3.20.27>

Conform any advances of grant funds to Vendors substantially to the same standards of timing and amount that apply to cash advances by Federal agencies, if applicable. (refer state to 10 CFR 600.221(c).

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## **BUY AMERICAN**

The Sub-recipient agrees to comply with the Buy American requirements in Section 1605 of ARRA. Unless this requirement has been waived by a competent federal authority pursuant to 2 CFR 176.140, none of the funds appropriated or otherwise made available by the American Recovery and Reinvestment Act may be used for a project for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States. When using funds appropriated under the American Recovery and Reinvestment Act of 2009 (Pub. L. 111–5), the definition of “domestic manufactured construction material” requires manufacture in the United States but does not include a requirement with regard to the origin of the components. Production in the United States of the iron or steel used as construction material requires that all manufacturing processes must take place in the United States, except metallurgical processes involving refinement of steel additives. These requirements do not apply to steel or iron used as components or subcomponents of other manufactured construction material. There is no requirement with regard to the origin of components or subcomponents in other manufactured construction material, as long as the manufacture of the construction material occurs in the United States.

As used in this “Buy American” term and condition:

- (1) Manufactured good means a good brought to the construction site for incorporation into the building or work that has been:
  - (i) Processed into a specific form and shape; or
  - (ii) Combined with other raw material to create a material that has different properties than the properties of the individual raw materials.
- (2) Public building and public work means a public building of, and a public work of, a governmental entity (the United States; the District of Columbia; commonwealths, territories, and minor outlying islands of the United States; State and local governments; and multi-State, regional, or interstate entities which have governmental functions). These buildings and works may include, without limitation, bridges, dams, plants, highways, parkways, streets, subways, tunnels, sewers, mains, power lines, pumping stations, heavy generators, railways, airports, terminals, docks, piers, wharves, ways, lighthouses, buoys, jetties, breakwaters, levees, and canals, and the construction, alteration, maintenance, or repair of such buildings and works.
- (3) Steel means an alloy that includes at least 50 percent iron, between .02 and 2 percent carbon, and may include other elements.

**Domestic preference.** (1) This award term and condition implements Section 1605 of the American Recovery and Reinvestment Act of 2009 (Recovery Act) (Pub. L. 111--5), by requiring that all iron, steel, and manufactured goods used in the project are produced in the United States except as provided in paragraph (b)(3) and (b)(4) of this section and condition.

A federal law, commonly known as the “Buy American Act,” 41 U.S.C.A. § 10A-10D, exists as a separate and additional legal limitation on the use of ARRA federal funds. The Sub-recipient agrees to use only domestic unmanufactured construction material, as required by the Buy American Act.

The Sub-recipient acknowledges to and for the benefit of the State of New Hampshire that it understands the goods and services under this Agreement are being funded with monies made available by ARRA and such law contains provisions commonly known as “Buy American;” that requires all of the iron, steel, and manufactured goods used in the project be produced in the United States (“Buy American Requirements”) including iron, steel, and manufactured goods provided by the Sub-recipient pursuant to this Agreement. The Sub-recipient hereby represents and warrants to and for the benefit of TRC that

- (a) The Sub-recipient has reviewed and understands the Buy American Requirements,
- (b) all of the iron, steel, and manufactured goods used in the project funded by this agreement will be and/or have been produced in the United States in a manner that complies with the Buy American Requirements, unless a waiver of the requirements has been approved by federal authorities, and

(c) The Sub-recipient will provide any further verified information, certification or assurance of compliance with this paragraph, or information necessary to support a waiver of the Buy American Requirements, as may be requested by the State. Notwithstanding any other provision of the Agreement, any failure to comply with this paragraph by the Sub-recipient shall permit NHOEP/TRC to recover as damages against the Sub-recipient any loss, expense or cost (including without limitation attorney's fees) incurred by NHOEP/TRC resulting from any such failure (including without limitation any impairment or loss of funding, whether in whole or in part, from NHOEP/TRC or any damages owed to NHOEP/TRC).

The Sub-recipient agrees to certify compliance with a certification in the following form:

1. Identification of American-made Iron, Steel, and Manufactured Goods: Consistent with the terms of the bid solicitation and the provisions of ARRA Section 1605, the Sub-recipient certifies that the bid on which this Agreement is based reflects the Contractor's best, good faith effort to identify domestic sources of iron, steel, and manufactured goods for every component contained in the bid solicitation where such American-made components are available on the schedule and consistent with the deadlines prescribed in or required by the bid solicitation.
2. Verification of U.S. Production: The Sub-recipient certifies that all components contained in the bid solicitation that are American-made have been so identified, and the Sub-recipient agrees that it will provide reasonable, sufficient, and timely verification to the State of the U.S. production of each component so identified.

**The rest of this page is intentionally left blank.**

## **DAVIS BACON ACT REQUIREMENTS**

**A. Definitions.** For purposes of this term, the Contract Work Hours and Safety Standards Act term, and the Sub-recipient Functions term, the following definitions are applicable:

- (1) “*Construction, alteration or repair*” means all types of work done by laborers and mechanics employed by a Vendor on a particular building or work at the site thereof, including without limitation—
- (a) Altering, remodeling, installation (if appropriate) on the site of the work of items fabricated off-site;
  - (b) Painting and decorating; or
  - (c) Manufacturing or furnishing of materials, articles, supplies, or equipment on the site of the building or work.
- (2) “*Site of the work*”—
- (a) Means—
    - (i) The physical place or places where the construction called for in the Agreement will remain when work on it is completed; and
    - (ii) Any other site where a significant portion of the building or work is constructed, provided that such site is established specifically for the performance of the project;
  - (b) Except as provided in paragraph (c) of this definition, the site of the work includes any fabrication plants, mobile factories, batch plants, borrow pits, job headquarters, tool yards, etc., provided—
    - (1) They are dedicated exclusively, or nearly so, to performance of the project; and
    - (2) They are adjacent or virtually adjacent to the site of the work as defined in paragraphs (2) (a) (i) or (2) (a) (ii) of this definition; and
  - (c) Does not include permanent home offices, branch plant establishments, fabrication plants, or tool yards of a Sub-recipient or Vendor whose locations and continuance in operation are determined wholly without regard to a particular contract or Federal Award or project. In addition, fabrication plants, batch plants, borrow pits, job headquarters, yards, etc., of a commercial or material supplier which are established by a supplier of materials for the project before opening of bids and not on the project site as defined in paragraphs (2) (a) (i) or (2) (a) (ii) of this definition, are not included in the “site of the work.” Such permanent, previously established facilities are not a part of the “site of the work” even if the operations for a period of time may be dedicated exclusively or nearly so, to the performance of an Agreement, Award, Subaward, or Contract.

### **Prevailing Wage Requirements:**

The Sub-recipient agrees to comply with the Wage Rate Requirements in Section 1606 of ARRA. In accordance with 2 C.F.R. §176.190, the standard Davis-Bacon contract clause as specified by 29 CFR §5.5(a) is set forth below:

29 CFR §5.5(a):

#### **§ 5.5 Contract provisions and related matters.**

(1) Minimum wages.

(i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3) ), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which will be attached and made a part, regardless of any contractual relationship which may be alleged to exist between the Sub-recipient and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as

provided in § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: *Provided*, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (a) (1) (ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Sub-recipient and its Vendors at the site of the work in a prominent and accessible place where the poster and wage determination can be easily seen by the workers.

(ii)(A) TRC shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract, shall be classified in conformance with the wage determination. TRC shall approve or transmit to NHOEP/ DOE for approval of any requests for an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

- (1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and
- (2) The classification is utilized in the area by the construction industry; and
- (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the Sub-recipient and the laborers and mechanics to be employed in the classification (if known), or their representatives, and TRC agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by TRC to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise TRC or will notify TRC within the 30-day period that additional time is necessary.

(C) In the event the Sub-recipient, the laborers or mechanics to be employed in the classification or their representatives, and TRC do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), TRC shall refer the questions, including the views of all interested parties and the recommendation of TRC, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise TRC or will notify TRC within the 30-day period that additional time is necessary.

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

(iii) Whenever the minimum wage rate prescribed in the Sub-contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the Sub-recipient shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the Sub-recipient does not make payments to a trustee or other third person, the Sub-recipient may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, *Provided*, that the Secretary of Labor has found, upon the written request of the Sub-recipient through TRC, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Sub-recipient to set aside in a separate account assets for the meeting of obligations under the plan or program.

**Additional prevailing wage rules may apply for volunteers:**

The Department of Labor states in its Field Operations Handbook (15e23): "There are no exceptions to Davis-Bacon coverage for volunteer labor unless an exception is specifically provided for in the particular Davis-Bacon Related Act under which the project funds are derived." The Davis-Bacon Related Act for the American Recovery and Reinvestment Act of 2009 (ARRA) is silent on this subject of an exception for volunteer labor. Therefore, on ARRA-funded projects subject to Davis-Bacon coverage, the school must pay all workers the prevailing wage.

### **Approval of Wage Rates**

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

For additional guidance on the wage rate requirements of section 1606, contact TRC. The Secretary of Labor retains final coverage authority under Reorganization Plan Number 14.

(2) Withholding. The New Hampshire Office of Energy and Planning (OEP) and TRC shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the Sub-recipient under this Agreement or any other State contract with the same Sub-recipient, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same Sub-recipient, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the Sub-recipient or any Vendor(s) the full amount of wages required by the Agreement or sub-contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the Work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the Agreement, TRC may, after written notice to the Sub-recipient take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

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

(3) Payrolls and basic records.

(i) Payrolls and basic records relating thereto shall be maintained by the Sub-recipient during the course of the Work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the Work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Sub-recipient shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Sub-recipients employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) On behalf of the Office of Energy and Planning (OEP) and TRC, the Sub-recipient shall perform the following functions:

- (a) Obtain, maintain and monitor all Davis Bacon Act certified payroll records submitted by the Sub-recipients and Vendors at any tier under this Award;
- (b) Review all Davis Bacon Act certified payroll records for compliance with Davis Bacon Act requirements, including applicable Department Of Labor wage determinations;
- (c) Notify TRC of any non-compliance with Davis Bacon Act requirements by Sub-recipients or Vendors at any tier, including any non-compliances identified as the result of reviews performed pursuant to paragraph (b) above;
- (d) Address any Sub-recipient and any Vendor Davis Bacon Act non-compliance issues; If Davis Bacon Act non-compliance issues cannot be resolved in a timely manner, forward complaints, summary of investigations and all relevant information to TRC and OEP;
- (e) Provide TRC and OEP with detailed information regarding the resolution of any Davis Bacon Act non-compliance issues

The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information **must be submitted** on Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The Sub-recipient is responsible for the submission of copies of payrolls by all Vendors. Sub-recipients and Vendors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the OEP and TRC if the agency is a party to the contract, but if the agency is not such a party, the Vendor will submit them to the Sub-recipient for transmission to TRC, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a Sub-recipient to require a Vendor to provide addresses and social security numbers to the Sub-recipient for its own records, without weekly submission to the sponsoring government agency (or the applicant, sponsor, or owner).

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

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

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the Agreement or sub-contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the Agreement or sub-contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the Sub-recipient or Vendor to civil or criminal prosecution under section 1001 of [title 18 and section 231](#) of title 31 of the United States Code or New Hampshire Revised Statutes Annotated Chapter 641.

(iii) The Sub-recipient or Vendor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of TRC, OEP, the State of New Hampshire or the federal Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the Sub-recipient or Vendor fails to submit the required records

or to make them available, the government agency may, after written notice take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to [29 CFR 5.12](#).

(4) Apprentices and trainees--

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the Sub-recipient as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a Sub-recipient is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Sub-recipient's or Vendor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the Sub-recipient will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in [29 CFR 5.16](#), trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Sub-recipient will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

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

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

(6) Sub-contracts. The Sub-recipient or Vendor shall insert in any sub-contracts or lower tier sub-contracts the clauses contained in 29 CFR 5.5(a) (1) through (10) (Davis Bacon Act Requirements) and such other clauses as the (*write in the name of the government agency*) may by appropriate instructions require, and also a clause requiring the Vendor(s) to include these clauses in any lower tier subcontracts. The Sub-recipient shall be responsible for the compliance by any Vendor(s) or lower tier Vendor(s) with all the contract clauses in 29 CFR 5.5.

(7) Contract termination: debarment. A breach of the Agreement clauses in 29 CFR 5.5 may be grounds for termination of the Agreement, and for debarment as a Sub-recipient and a Vendor as provided in [29 CFR 5.12](#).

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

(9) Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this Agreement shall not be subject to the general disputes clause of this Agreement. Such disputes shall be resolved in accordance with the procedures of the federal Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the Sub-recipients (any of its Vendors) and TRC, OEP, the U.S. Department of Labor, or the employees or their representatives.

(10) Certification of eligibility.

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

(ii) No part of this Agreement shall be sub-contracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or [29 CFR 5.12\(a\)\(1\)](#).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, [18 U.S.C. 1001](#) and New Hampshire RSA Chapter 641.

(b) Contract Work Hours and Safety Standards Act. For any contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

(1) Overtime requirements. No Sub-recipient or Vendor contracting for any part of the Agreement/sub-contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (b) (1) of this section the Sub-recipient or Vendor responsible there for shall be liable for the unpaid wages. In addition, such Sub-recipient or Vendor shall be liable to the United States and the State of New Hampshire, for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.

(3) Withholding for unpaid wages and liquidated damages. OEP/TRC shall upon its own action or upon written request of an authorized representative of the federal Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Sub-recipient or Vendor under any such contract or any other contract with the same Sub-recipient, or any other federally-assisted contract subject to

the Contract Work Hours and Safety Standards Act, which is held by the same Sub-recipient, such sums as may be determined to be necessary to satisfy any liabilities of such Sub-recipient or Vendor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.

(c) In any contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other statutes cited in [§ 5.1](#), the Sub-recipient or Vendor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the Agreement for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Further, the records to be maintained under this paragraph shall be made available by the Sub-recipient or Vendor for inspection, copying, or transcription by authorized representatives of the State of New Hampshire and the federal Department of Labor, and the Sub-recipient or Vendor will permit such representatives to interview employees during working hours on the job.

The Sub-recipient agrees to have an Occupational Safety and Health Administration (OSHA) 10-hour construction safety program for their on-site employees that complies with the requirements set forth in RSA 277:5-a.

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## STANDARD EXHIBIT D

The Sub-recipient identified in Block 1.3 on page one of the General Provisions agrees to comply with the provisions of Sections 5151-5160 of the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, Title V, Subtitle D; 41 U.S.C. 701 et seq.), and further agrees to have the Sub-recipient's representative, as identified in Block 1.11 and 1.12 on page one of the General Provisions execute the following Certification:

### **CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS ALTERNATIVE I - FOR SUB-RECIPIENTS OTHER THAN INDIVIDUALS**

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

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

TRC, 155 Fleet Street, Suite #305, Portsmouth, NH 03801

- (A) The Sub-recipient certifies that it will or will continue to provide a drug-free workplace by:
- (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Sub-recipient's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
  - (b) Establishing an ongoing drug-free awareness program to inform employees about—
    - (1) The dangers of drug abuse in the workplace;
    - (2) The Sub-recipient's policy of maintaining a drug-free workplace;
    - (3) Any available drug counseling, rehabilitation, and employee assistance programs; and
    - (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the Work place;
  - (c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

- (d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will—
  - (1) Abide by the terms of the statement; and
  - (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;
- (e) Notifying TRC in writing, within ten calendar days after receiving notice under subparagraph (d) (2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to the TRC contracting officer on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;
- (f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted—
  - (1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
  - (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;
- (g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).
- (B) The Sub-recipient may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant.

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

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

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5/14/2010-03/10/2012

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Sub-recipient (Local Government Entity) Name

Period Covered by this Certification

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Name and Title of Sub-Recipient Authorized Representative

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Sub-recipient Authorized Representative Signature

Date



**STANDARD EXHIBIT E**

The Sub-recipient identified in Section 1.3 of the General Provisions agrees to comply with the provisions of Section 319 of Public Law 101-121, Government wide Guidance for New Restrictions on Lobbying, and 31 U.S.C. 1352, and further agrees to have the Sub-recipient's representative, as identified in Sections 1.11 and 1.12 of the General Provisions execute the following Certification:

**CERTIFICATION REGARDING LOBBYING**

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

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

- (1) No Federal appropriated funds have been paid or will be paid by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement (and by specific mention sub-grantee or sub-contractor).
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement (and by specific mention sub-grantee or sub-contractor), the undersigned shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying, in accordance with its instructions, attached and identified as Standard Exhibit E-I.
- (3) The undersigned shall require that the language of this certification be included in the Agreement for sub-contracts at all tiers and that all Sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

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Sub-recipient Authorized Representative Signature

Sub-recipient Authorized Representative Title

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Sub-recipient (Local Government Entity) Name

Date





## STANDARD EXHIBIT F

The Sub-recipient identified in Block 1.3 on page one of the General Provisions agrees to comply with the provisions of Executive Office of the President, Executive Order 12529 and 45 CFR Part 76 regarding Debarment, Suspension, and Other Responsibility Matters, and further agrees to have the Sub-recipient's representative, as identified in Block 1.12 on page one of the General Provisions execute the following Certification:

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

#### ***Instructions for Certification***

- (1) By signing and submitting this proposal (Agreement), the Sub-recipient is providing the certification set out below.
- (2) The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. If necessary, the Sub-recipient shall submit an explanation of why it cannot provide the certification. The certification or explanation will be considered in connection with TRC determination whether to enter into this transaction. However, failure of the Sub-recipient to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
- (3) The certification in this clause is a material representation of fact upon which reliance was placed when TRC determined to enter into this transaction. If it is later determined that the Sub-recipient knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, TRC may terminate this transaction for cause or default.
- (4) The prospective Sub-recipient shall provide immediate written notice to the TRC to whom this Agreement is submitted if at any time the Sub-recipient learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- (5) The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549: 45 CFR Part 76. See the attached definitions.
- (6) The Sub-recipient agrees by submitting this Agreement that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by TRC.
- (7) The Sub-recipient further agrees by submitting this Agreement that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions," provided by TRC, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
- (8) A Sub-recipient in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or involuntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Non procurement List (of excluded parties).
- (9) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order

to render in good faith the certification required by this clause. The knowledge and information of a Sub-recipient is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

- (10) Except for transactions authorized under paragraph 6 of these instructions, if a Sub-recipient in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal government, TRC may terminate this transaction for cause or default.
- (1) The Sub-recipient certifies to the best of its knowledge and belief, that it and its principals:
  - (a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
  - (b) have not within a three-year period preceding this proposal (contract) been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or a contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
  - (c) are not presently indicted for otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (l) (b) of this certification;
  - (d) have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.
- (2) Where the Sub-recipient is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal (contract).

***Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions***  
(To Be Supplied to Lower Tier Vendors )

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

- (a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.
- (b) where the prospective lower tier Vendor is unable to certify to any of the above, such Sub-recipient/ Vendor shall attach an explanation to this Agreement.

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

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Sub-recipient Authorized Representative Signature	Sub-recipient Authorized Representative Title
Sub-recipient (Local Government Entity) Name	Date





**STANDARD EXHIBIT G**

**CERTIFICATION REGARDING THE  
AMERICANS WITH DISABILITIES ACT COMPLIANCE**

The Sub-recipient identified in Black 1.3 on page one of the General Provisions agrees by signature of the Sub-recipient's representative as identified in Sections 1.11 and 1.12 of the General Provisions, to execute the following certification:

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

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Sub-recipient Authorized Representative Signature

Sub-recipient Authorized Representative Title

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Sub-recipient (Local Government Entity) Name

Date



**STANDARD EXHIBIT H**  
**CERTIFICATION**  
**Public Law 103-227, Part C**  
**ENVIRONMENTAL TOBACCO SMOKE**

The Sub-recipient identified in Black 1.3 on page one of the General Provisions agrees by signature of the Sub-recipient's representative as identified in Sections 1.11 and 1.12 of the General Provisions, to execute the following certification:

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

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

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

By signing and submitting this application the Sub-recipient certifies that it will comply with the requirements of the Act.

The Sub-recipient further agrees that it will require the language of this certification be included in any sub-contract which contains provisions for the children's services and that all Vendors shall certify accordingly.

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Sub-recipient Authorized Representative Signature

Sub-recipient Authorized Representative Title

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Sub-recipient (Local Government Entity) Name

Date





**STANDARD EXHIBIT I**

**TITLE X  
PUBLIC HEALTH**

**Chapter 147-A  
Hazardous Waste Management**

The Sub-recipient identified in Block 1.3 on page one of the General Provisions agrees by signature of the Sub-recipient's representative as identified in Block 1.11 and 1.12 on page one of the General Provisions, to execute the following certification:

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

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Sub-recipient Authorized Representative Signature

Sub-recipient Authorized Representative Title

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Sub-recipient (Local Government Entity) Name

Date