

PIERCE COUNTY INVITATION TO BID

NUMBER 2065

PROJECT TITLE: GREEN CLEANING CONTRACTOR FOR WEATHERIZATION PROGRAM

BIDS MUST BE SUBMITTED TO:

CLERK OF THE COUNCIL
930 TACOMA AVE S RM 1046
TACOMA WA 98402-2176

Public Works BID Procurement Dates:

BID Issue Date:	June 14, 2018	
Questions Cut-off Date/Time:	June 28, 2018	12:00 PM
*Bid Due Date/Time:	July 6, 2018	1:00PM

*AT WHICH TIME THEY WILL BE PUBLICLY OPENED AND READ ALOUD
IN THE COUNCIL CHAMBERS, 10TH FLOOR COUNTY-CITY BUILDING
930 TACOMA AVE S, TACOMA WA

PROCUREMENT CONTACT:

Jana Prince, Pierce County Purchasing, Senior Buyer
Phone: 253-798-7731
Email: jana.prince@piercecountywa.gov
Address: 950 Fawcett Ave Suite 100, Tacoma, WA 98402

*Bids for Advertised projects will **ONLY** be accepted from contractors who have a certificate of registration in compliance with RCW 18.27 for the performance of the Work at the time of bid opening.*

INVITATION TO BID NO. 2065
GREEN CLEANING CONTRACTOR FOR WEATHERIZATION PROGRAM

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The following forms must be returned with the bid:

- Bid/Form of Proposal including Certification of Nonsegregated Facilities and Non-Collusion & Debarment Affidavit
- Notice to Labor Unions/Other Employment Agencies Form
- Affirmative Action Plan 1 and Plan D Forms
- Current Employees Form
- Contractor/Subcontractor Certification Forms (8 pages)
- References Form
- Price Sheet Forms
- Lead Safe Work Practice Certificate
- OSHA 10 – OSHA 30 Certificates
- Addenda (if any released)

*Please submit a W9 form if you haven't done business with Pierce County within the last 12 months

The following must be returned by the successful bidder no later than 10 days after bid award:

- Contract*
- Certificate of Insurance with liability limits not less than those specified in the Bid*

**These will be executed on County forms and will be enclosed with award documents*

**INVITATION TO BID PIERCE COUNTY BID NO. 2065
GREEN CLEANING CONTRACTORS FOR WEATHERIZATION**

SEALED BIDS will be received until 1:00 PM, on Friday, JULY 6, 2018, at the Pierce County Council Office, 10th Floor, Room 1046, County-City Building, 930 Tacoma Avenue South, Tacoma WA for a Residential Green Cleaner for Stick Built Home and Mobile Home Weatherization measures. Bids received after the date and time above stated will not be considered. Immediately following the 1:00 PM deadline for submission, bids will be publicly opened and read aloud. Bids must be submitted on the forms provided.

CONTRACT DOCUMENTS: Plans and specifications are available on the Procurement & Contract Services webpage at: <https://www.co.pierce.wa.us/5260/Current-Solicitations>

HOLDING BIDS: No bids shall be withdrawn after the opening of the bids for a period of sixty (60) days after the scheduled time set for submission of bids.

PROCUREMENT OFFICER: The Procurement Officer for this project is Jana Prince, pccpurchasing@piercecounitywa.gov or 253-798-7456

QUESTIONS: All questions regarding the drawings, specifications and bid pack must be received in writing no later than 12:00 PM, June 28, 2018 to the procurement officer.

AWARD OF BID: The award will be made by Pierce County to the lowest responsive and responsible bidder meeting the specifications and within the project budget allocation. Pierce County reserves the right to reject any bid for failure to comply with the requirements of this invitation to bid or of any of the Contract Documents. In addition, Pierce County may waive any minor defects or informalities at its discretion. Pierce County also further reserves the right to reject any or all bids for cause.

Pierce County is an Equal Opportunity Employer and encourages women, minorities, and Pierce County businesses that are qualified to perform this work to submit a bid on this project or to offer their services as a supplier or subcontractor.

TERM: This proposed agreement shall remain in effect for a period of one year from and after its effective date and shall automatically be renewed on a year-to-year basis thereafter unless either party hereto serves notice upon the other party of its intention to cancel at least 30 days in advance of the termination of the first year, or during any yearly renewal thereof. Notice during each renewal term may occur at any time during the course of such term. Prices will be considered firm for at least the first 12 months of the contract. No change in services or prices will be allowed without written consent of both parties, pursuant to the following conditions:

"Prices will be subject to increase or decrease in the same proportion as changes occur in the vendor's certified costs, providing the vendor requests an adjustment from the Purchasing Department 30 days prior to the effective date. The written request shall be accompanied by written proof of said changes in cost to vendor and is subject to acceptance by the Purchasing Department. The County shall have the option of accepting the price change or canceling the balance of the contract. All price decreases must be offered to the County."

Total contract period not to exceed 5 years.

PROJECT DESCRIPTION:

the supply of labor, materials, equipment, permits, and all other incidentals to provide green cleaning for the Weatherization program per the attached specifications and requirements. These jobs are funded through various grants from local utilities, state, and federal agencies. Seventy percent of the funding comes from federal grants, the remainder of the funding is provided by state and utility dollars. These jobs are subject to Washington State Prevailing Wages as described in the Prevailing Wage section of the bid packet.

The project is exempt from Davis-Bacon requirements. Minority and/or Women Owned Businesses and Section 3 Contractors are encouraged to submit bids. Bidders shall not be discriminated against on grounds of sex, race, color, age, religion, national origin, disability, or other protected classes. Contractors are encouraged to hire apprentices and Section 3 residents. Further, all bidders are encouraged to consider minority and women owned businesses and material suppliers for this project.

Funding levels can increase or decrease and may affect the total number of homes receiving services. Continuation of the program is contingent upon the County’s receipt of applicable grant funding. Pierce County may award primary, secondary, tertiary, etc. contracts as necessary to complete the authorized services within the time frame allotted for this work. The County reserves the right to award a specific number of homes to one (1) or more contractors. All work to be performed in a substantial and workmanlike manner according to standard procedures.

Successful bidder(s) shall be fully experienced in providing residential Green Cleaning measures. Bidders shall include a list of previous work history, including contact names and phone numbers, for whom they have done similar work. **BIDS RECEIVED WITHOUT THIS INFORMATION MAY BE DECLARED NON-RESPONSIVE.**

EVALUATION:

Each proposal received in response to the bid will be objectively evaluated and rated according to a specified point system.

A one hundred (100) point system will be used, weighted against the following criteria:

1. Proposal approach/quality (completeness and accuracy)	10
2. The degree to which the contractor demonstrates experience/knowledge and understanding of the intent of the program – (References)	25
3. Reasonable costs as proposed on the bid sheets	35
4. Structure in place (both technical equipment and adequate trained staff) to successfully perform the production required of the program – (List of employees and certifications)	30
Total Points	100

Sample Evaluation Form

Evaluation Matrix	SAMPLE EVALUATION FORM												
	Max Pts.	Bidder 1				Bidder 2				Bidder 3			
		Panel Member	Average	Panel Member	Average	Panel Member	Average	Panel Member	Average				
Evaluation Criteria		1	2	3		1	2	3		1	2	3	
Proposal Approach/Quality	15	15	8	5	9	15	10	10	12	15	12	10	12
Experience/Knowledge	20	10	15	10	12	18	15	20	18	20	18	20	19
Reasonable Costs	40	25	25	30	27	30	25	30	28	38	34	40	37
Structure in place	25	18	10	15	14	20	15	20	18	25	14	15	18
Total Average Score		68	58	60	62	83	65	80	76	98	76	85	86
		TOTAL 186				TOTAL 228				TOTAL 259			
		Bidder 4				Bidder 5				Bidder 6			
	Max Pts.	1	2	3		1	2	3		1	2	3	
Proposal Approach/Quality	15	14	14	15	14								
Experience/Knowledge	20	20	18	20	19								
Reasonable Costs	40	38	34	35	38								
Structure in place	25	25	24	25	25								
Total Average Score		97	90	95	94	0	0	0	0	0	0	0	0
		TOTAL 282				TOTAL 0				TOTAL 0			

ADDITIONAL INFORMATION:

Background checks are required for all personnel working on site.

- The Contractor shall conduct criminal background checks of all employees, interns, and volunteers who will or may have unsupervised access to children, adolescents, vulnerable adults, and persons who have developmental disabilities. All persons convicted of crimes listed in RCW 43.43.830-842 are prohibited from having access to children less than sixteen (16) years of age or developmentally disabled persons or vulnerable adults. Unsupervised access is defined in RCW 43.43.830(9).
- The Contractor shall conduct background checks at the time of initial employment and renewals every three (3) years, or when the Contractor knows or has reason to believe that a disqualifying conviction or finding occurred after completion of the most recent background check. The Contractor is required to notify the County no later than the next business day if the Contractor has been notified of a disqualifying conviction or finding, in writing or otherwise.

The Contractor may not sub-contract any portion of this bid without prior approval by Pierce County Human Services.

Contractors will be required to attend an introductory meeting regarding specifications prior to work being assigned.

Contractor may be required to attend Building Performance Center training.

Lead- Safe Renovations, Repairs, & Painting Initial

OSHA 10 – OSHA 30 certificates required or dates field personnel will be attending training (must accompany bid packet).

First Aid cards required for field personnel.

All documents, reports, proposals, submittals, working papers, or other materials prepared by the contractor pursuant to this proposal shall be printed on recycled paper whenever practicable.

Please note: Any oral interpretation is not binding on the County, unless confirmed by Addendum.

ASSIGNMENT OF WORK:

- Once a contractor is assigned a job through a Notice to Proceed, The Contractor is expected to complete a job within 60 days. Completion means all work is done and the job has passed inspection. When a project is completed, the Contractor will perform a quality control inspection and submit to the County for final inspection. If the job fails the County inspection, the Contractor shall make corrections and call for re-inspection within ten working days, unless the County has given the Contractor an extension.
- All invoices must be itemized, including type of material used.
- Invoices submitted for payment must be accompanied by the Prevailing Wage Intent and Affidavit and copies of any applicable permits (inspected and passed).
- It is the contractor's responsibility to ensure that a quality control inspection has been completed prior to submitting a completed invoice for payment.
- Tax rate is to be verified and accurate for the date and address where work was completed.
- Change orders are handled through additions/deletions to the Notice to Proceed.
- Human Services staff must authorize in writing any and all change orders prior to completion of applicable work.
- Failed Inspections: Contractor is responsible to re-file the Prevailing Wage Affidavit at their expense.
- Acceptable performance shall be determined by ninety percent (90%) of the jobs passing on the first inspection. A fee for re-inspections, equal to staff time required for re-inspection, will be implemented to recover costs of additional trips to the worksite by Human Services staff.

**CONTRACT COMPLIANCE REQUIREMENTS
FOR LOCAL PUBLIC WORKS PROJECTS**

PREVAILING WAGE RATE INFORMATION

This project requires the payment of prevailing wages per chapter 39.12 RCW. Workers shall receive no less than the prevailing rate of wage for their work on this locally funded project.

To find applicable wage rates please follow the following steps:

1. Please access the L & I website at:
<http://www.lni.wa.gov/TradesLicensing/PrevWage/WageRates/default.asp>
2. Please look up applicable wages using the project bid due date of **July 6, 2018**
3. This project will be located in Pierce County. If work will be performed outside of Pierce County, please select the county appropriate to the location of work.
4. A copy of prevailing wage rates for this project are available at the Pierce County Procurement & Contract services office for review. A copy may also be mailed to you upon request. Please contact Pierce County Contract Compliance for additional information at 253-798-7456.

**FORM OF BID
BID NUMBER 2065**

FOR: GREEN CLEANING CONTRACTOR FOR WEATHERIZATION PROGRAM

PROJECT DESCRIPTION

As part of the Department of Commerce’s Match Maker Grant, Pierce County will provide Weatherization Plus Health Services to include Comprehensive Green Cleaning. Comprehensive cleaning must include at a minimum the areas listed below. Due to the differing size of the homes we provide services we are seeking quotes on an hourly rate for green cleaning services. Our projects are subject to prevailing wage requirements. We anticipate approximately 20 to 35 jobs per year.

TIME FOR COMPLETION

Once a contractor is assigned a job through a Notice to Proceed, The Contractor is expected to complete a job within 60 days. Completion means all work is done and the job has passed inspection.

LIQUIDATED DAMAGES

The Undersigned acknowledges and agrees to abide by all provisions of the Liquidated Damages section of the General Provisions as it pertains to the Contractor for all work under this Contract. The Undersigned further agrees to pay to the Owner as liquidated damages as calculated in the General Provisions for each consecutive calendar day that he shall be in default after the time for completion specified herein.

INSURANCE REQUIREMENTS

The Contractor must provide proof of insurance of not less than \$1,000,000 each occurrence or combined single limit coverage of \$2,000,000 for Commercial General Liability with not greater than \$1,000.00 deductible. Professional Liability Insurance shall include errors and omissions providing \$1,000,000 coverage with not greater than a \$5,000.00 deductible for all liability. Contractor must also have \$500,000 Pollution Occurrence Insurance (POI). Proof of insurance against employee dishonesty in an amount approved by the County may be substituted in lieu of bond if approved by the County. Pierce County must be listed as additional insured on the certificate.

If written notice of acceptance of this proposal is mailed, telegraphed, or delivered to the Undersigned within the time limit noted in the Contract Documents after the proposal due date, or at any time thereafter before this proposal is withdrawn, the Undersigned shall, within twenty (20) days after the date of such mailing, telegraphing, or delivering of such notice, execute and deliver a Contract & Payment and Performance Bond acceptable to the Owner.

The Undersigned hereby designates as the main contact for this bid and subsequent potential contract, to which such notice of acceptance may be mailed or delivered:

(Name, Title) _____

(Telephone No, Email Address): _____

This proposal may be withdrawn at any time prior to the scheduled time for the opening of proposals, or any authorized postponement thereof.

Having carefully examined all specifications for Pierce County, as prepared by Pierce County, the Undersigned propose to furnish all labor, equipment, and materials and perform all work for this project in accordance with the drawings, specifications and addenda (if any), for the consideration of the amounts listed on the following pricing sheet:

SERVICE AREA 1 PRICE SHEET – GREEN CLEANING

Description	Estimated hours per area
Full house deep clean to include:	
Kitchen: Countertops and backsplash clean Cabinet fronts wiped down Sinks scrubbed Outside of oven and stove top cleaned Top and outside of fridge Faucets	_____ HRS
Living Areas: All furniture dusted including picture frames Hardwood/tile floors washed/carpets vacuumed Tables cleaned Couch cushions straightened and vacuumed	_____ HRS
Laundry: Top and outside of appliances wiped down Cabinet fronts wiped down	_____ HRS
Bathrooms: Tub thoroughly cleaned and rinsed Shower floor scrubbed thoroughly Tiles and chrome Sinks Toilets scrubbed inside and out Mirrors and Cabinet exteriors cleaned Vacuum and/or wash floors including behind the toilet baseboards	_____ HRS
Bedrooms: Carpets vacuumed/vacuum under bed if accessible All areas dusted	_____ HRS
All Areas: Windows cleaned, sills, tracks and blinds wiped down Woodwork, doorframes and switch plates Floors, baseboards and Cobwebs Glass slider doors washed (inside and out) Ceiling fans cleaned Doors, door knobs and switch plates wiped down Baseboards and heat registers wiped down Mirrors cleaned	_____ HRS
Hourly Rate:	
Hourly Rate	\$ _____
Fees:	
Intent and Affidavit Filing	\$ _____

ADDENDA: Bidder acknowledges review of all Addenda through No. _____

BIDDER RESPONSIBILITY INFORMATION

State of Washington Contractor's License No: _____ FIRM: _____
_____ ADDRESS: _____
Unified Business Identifier (UBI) No: _____ CITY: _____ STATE: _____ ZIP: _____
_____ EMPLOYMENT SECURITY DEPARTMENT NO: _____ PHONE: _____
_____ EMAIL: _____

SIGNATURE OF AUTHORIZED PERSON*: _____

PRINT NAME & TITLE: _____

DATE: _____

Complete the tax status information for one of the following business entity types. **Individual or Corporate name must match exactly as registered with either Social Security Administration or Internal Revenue Service.**

Identification of Contractor as a sole proprietor, a partnership, a joint venture, a corporation or another described form of legal entity: _____

Federal Tax ID# (EIN or SSN – as applicable): _____

** If a corporation, bid must be executed in the corporate name by the president or vice-president (or any other corporate officer accompanied by evidence of authority to sign). If a co-partnership, bid must be executed by a partner.*

CERTIFICATION OF NONSEGREGATED FACILITIES

The contractor certifies that no segregated facilities are maintained and will not be maintained during the execution of this contract at any of contractor's establishments.

The contractor further certifies that none of the contractor's employees are permitted to perform their services at any location under the contractor's control during the life of this contract where segregated facilities are maintained. The contractor certifies further that he will not maintain or provide for his employees any segregated facilities at any of his establishments, and that he will not permit his employees to perform their services at any location, under his control, where segregated facilities are maintained.

The contractor agrees that a breach of this certification is a violation of the Equal Opportunity clause in this contract. As used in this certification, the term "segregated facilities" means any waiting rooms, work area, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, creed, color or national origin, because of habit, local custom, or otherwise.

The contractor agrees that identical certifications from proposed contractors will be obtained prior to the award of any subcontracts. Contractor will retain a copy of any subcontractor's certification and will send original to Contract Compliance Division.

NON-COLLUSION & DEBARMENT AFFIDAVIT

I, the undersigned, having carefully examined the Invitation to Bid, propose to furnish materials, equipment, supplies and/or services as set forth herein.

Being first duly sworn, on my oath, I hereby certify that this proposal is genuine and not a sham or collusive proposal, or made in the interests or on behalf of any person not therein named; and I have not directly or indirectly induced or solicited any contractor or supplier on the above work to put in a sham proposal or any person or corporation to refrain from submitting a proposal; and that I have not in any manner sought by collusion to secure to myself an advantage over any other contractor(s) or person(s).

I further certify that, except as noted below, the firm, association or corporation or any person in a controlling capacity associated therewith or any position involving the administration of federal funds; is not currently under suspension, debarment, voluntary exclusion, or determination of eligibility by any federal agency; has not been suspended, debarred, voluntarily excluded or determined ineligible by any federal agency within the past three years; does not have a proposed debarment pending; and has not been indicted, convicted or had a civil judgement rendered against said person, firm, association or corporation by a court of competent jurisdiction in any matter involving fraud or official misconduct within the last three years.

Exceptions will not necessarily result in denial of award, but will be considered in determining bidder responsibility. For any exception noted, indicate above to whom it applies, initiating agency, and dates of action. Providing false information may result in criminal prosecution or administrative sanctions.

"A suspending or debaring official may grant an exception permitting a debarred, suspended, or excluded person to participate in a particular transaction upon a written determination by such official stating the reason(s) for deviating from the Presidential policy established by Executive Order 12549..." (49CFR Part 29 Section 29.215).

Contractor's Registered Name _____ Date

Signature of person authorized to enter contractual agreements

Printed Name/Title

THIS PAGE MUST BE RETURNED WITH BID

New Bidder Responsibility Criteria: As of July 23, 2017 per [RCW 39.04.350\(1\)\(g\)](#) all bidders must certify to the below statement to be considered a responsible bidder on public works projects:

CERTIFICATION OF COMPLIANCE WITH WAGE PAYMENT STATUTES

The bidder hereby certifies that, within the three-year period immediately preceding the bid due date, the bidder is not a “willful” violator, as defined in RCW [49.48.082](#), of any provision of [chapters 49.46, 49.48, or 49.52 RCW](#), as determined by a final and binding citation and notice of assessment issued by the Department of Labor and Industries or through a civil judgment entered by a court of limited or general jurisdiction.

I certify under penalty of perjury under the laws of the State of Washington that the statement regarding Certification of Compliance with Wage Payment Statutes is true and correct.

***SIGNATURE OF AUTHORIZED PERSON:** _____

PRINT NAME & TITLE: _____

DATE: _____

**to determine ‘authorized’ person reference [RCW 9A.72.085](#)*

EXHIBIT A - SCOPE OF WORK

1. GOALS

Pierce County Department of Human Services Weatherization Program is funded by through the Department of Commerce. Matchmaker, Health and Human Services, Bonneville Power Administration, Department of Energy, and Puget Sound Energy.

2. AUTHORIZED WORK

All work shall be performed in accordance with applicable building codes, program specifications included in the Notice to Proceed, and Department of Commerce Weatherization specifications, including all amendments and agency interpretations, procedures, and guidelines and any subsequent revisions thereto.

3. SPECIFICATIONS

- a. All work shall be performed in accordance with applicable building codes and Department of Commerce requirements, including all amendments and agency interpretations, procedures, and guidelines and any subsequent revisions thereto.
- b. Department of Commerce Weatherization Specifications can be found at:
<http://www.commerce.wa.gov/Documents/HIP-Weatherization-Manual-2014.doc>
- c. National Renewable Energy Laboratory Standard Work Specifications can be found at:
<https://sws.nrel.gov/user>
- d. Weatherization Field Guide
<https://www.dropbox.com/s/lhfcq6hs0eflvks/Retrofitting%20Washington%20-%20BPC.pdf?dl=0>

4. BACKGROUND CHECKS

- a. The Contractor shall conduct criminal background checks of all employees, interns, and volunteers who will or may have unsupervised access to children, adolescents, vulnerable adults, and persons who have developmental disabilities. All persons convicted of crimes listed in RCW 43.43.830-842 are prohibited from having access to children less than sixteen (16) years of age or developmentally disabled persons or vulnerable adults. Unsupervised access is defined in RCW 43.43.830(9).
- b. The Contractor shall conduct background checks at the time of initial employment and renewals every three (3) years, or when the Contractor knows or has reason to believe that a disqualifying conviction or finding occurred after completion of the most recent background check. The Contractor is required to notify the County no later than the next business day if the Contractor has been notified of a disqualifying conviction or finding, in writing or otherwise.

5. CONTRACTOR'S RESPONSIBILITY FOR WORK

- a. All work and material for the Agreement, including any change order work, shall be at the sole risk of the Contractor until the entire improvement has been completed as determined by the County, except as provided in this section.
- b. The Contractor shall rebuild, repair, restore, and make good all damages to any portion of the permanent or temporary work occurring before final acceptance and shall bear all the expense to do so, except damage to the permanent work caused by: (a) acts of God, such as earthquake, floods, or other cataclysmic phenomenon of nature, or (b) acts of public enemy or of governmental authorities; provided, however, that these exceptions shall not apply should damages result from the Contractor's failure to take reasonable precautions or to exercise sound engineering and construction practices in conducting the work.

- c. The Contractor shall promptly repair all damage to either temporary or permanent work as directed by the County. The County may elect to accomplish repair by County forces or other means.
- d. The Contractor will furnish all of the materials, supplies, tools, equipment, labor, and other services necessary for the work. The Contractor shall be solely responsible for all methods, techniques, safety precautions, and procedures and for specifications and/or procedures as set forth in this Agreement.
- e. If the Contractor performs any work contrary to such laws, specifications, ordinances, rules, regulations, and procedures, the Contractor shall assume full responsibility and shall bear all costs attributable thereto.
- f. If during the course of this Agreement the work provided does not comply with the laws, specifications, ordinances, rules, regulations, and procedures, the Contractor shall take such corrective action as the County may require. Failure to make the necessary corrections shall be a material breach of this Agreement and cause for termination.

6. SATISFACTORY WORK PERFORMANCE

The Contractor shall maintain a satisfactory level of work performance. Performance shall be determined by maintaining a passage rate of at least ninety (90) percent on job inspections, completing work within seven (7) to twenty-one (21) calendar days per Notice to Proceed, completing repairs and remedials within ten (10) working days of notification, establishing and maintaining positive customer relations, and responding in a timely satisfactory manner to customer complaints.

7. PROTECTION OF PROPERTY

- a. The Contractor shall protect private or public property on or in the vicinity of the work site. The Contractor shall ensure that it is not removed, damaged, destroyed, or prevented from being used unless the Agreement so specifies.
- b. Property includes land, utilities, trees, landscaping, improvements legally on County property, markers, monuments, buildings, structures, pipe, conduit, sewer or water lines, signs and property of all description whether shown on the plans or not. If the Contractor (or agent/employees of the Contractor or of subcontractors or suppliers) damages, destroys, or interferes with the use of such property, the Contractor shall restore it to original condition. The Contractor shall also halt any interference with the property's use. If the Contractor refuses or does not respond immediately, the County may have such property restored by other means and subtract the cost from money that will be or is due the Contractor.
- c. The Contractor shall bear sole responsibility for damage to completed portions of the project and to property located off the project caused by erosion, siltation, run-off, or other related items arising during construction of the project. The Contractor shall also bear sole responsibility for any pollution of rivers, streams, ground water, or other waters which may occur as a result of construction operations.

8. ACCEPTANCE OF WORK

The Contractor has the right to refuse work only when the Contractor does not have the capacity to complete the work within the required seven (7) to twenty-one (21) calendar days per Notice to Proceed, or when the work cannot be satisfactorily completed due to health or safety concerns. The Contractor must notify the County in writing when work is refused. The County reserves the right to reissue refused work to another Contractor. .

9. INSPECTIONS

Department of Human Services' designated employee(s) (Designee) will conduct inspections to determine compliance with all specifications, policies and procedures. The Contractor may be required to attend all inspections. The Designee will be the final interpreter of the requirements from specifications and program related documents.

10. WARRANTY

The Contractor shall warranty all work performed under this contract for a period of one (1) year following the acceptance of the work by the County.

11. PERMITS AND FEES

The Contractor shall secure and pay for all permits, fees, licenses necessary for the proper execution and completion of the work which are customarily secured after execution of the Agreement and which are legally required. Copies of permits shall be forwarded to the County with billing. Permits must pass inspection by local jurisdiction before payment can be made.

12. SUBCONTRACTING

The Contractor shall not subcontract work or services provided under this Agreement without obtaining the prior written authorization of the County. At the County's request, the Contractor will forward to the County copies of subcontracts and fiscal, programmatic, and other material pertaining to subcontracts.

13. GRATUITIES

The Contractor shall not extend any loan, gratuity, or gift of money in any form whatsoever to any employee or officer of the County; nor will the Contractor rent or purchase any equipment, materials or services from any employee or officer of the County.

14. COVENANT AGAINST CONTINGENT FEES

The Contractor promises that no person or agency has been employed or retained on a contingent fee for the purpose of seeking or obtaining this Agreement. This does not apply to legitimate employees or an established commercial or selling agency maintained by the Contractor for the purpose of securing business. In the event of breach of this clause by the Contractor, the County may at its discretion:

- a. Annul the Agreement without any liability; or
- b. Deduct from the Agreement price or consideration or otherwise recover the full amount of any such contingent fee.

15. TREATMENT OF CONTRACTOR ASSETS

- a. Any non-expendable personal property furnished to, or purchased, by the Contractor, title to which is vested in the County shall, unless otherwise provided herein or approved by the County, be used only for the performance of this Agreement.
- b. As a precedent to reimbursement for the purchase of non-expendable personal property, title to which shall be vested in the County, the Contractor agrees to provide all necessary information and documents in order for the County to execute such security agreements and other documents as shall be necessary for the County to protect its interest in such property in accordance with the Uniform Commercial Code as codified in Article 9 of Title 62A RCW.

16. NONWAIVER OF COUNTY RIGHTS

The County’s failure to insist upon the strict performance of any provision of this Agreement, to exercise any right based upon a breach thereof, or the acceptance of any defective performance, shall not constitute a waiver of any rights under this Agreement, unless stated to be such in writing by an authorized representative of the County and attached to the original Agreement.

17. PERFORMANCE STANDARDS AND LICENSING

The Contractor shall comply with all applicable local, state, and federal licensing and accrediting requirements/standards and any other standards or criteria established by the County to assure quality of services necessary for the performance of this Agreement.

18. RIGHT TO REVIEW:

This contract is subject to review by any Federal or State auditor. The County or its designee shall have the right to review and monitor the financial and service components of this program by whatever means are deemed expedient by the Contracting Officer. Such review may occur with or without notice, and may include, but is not limited to, onsite inspection by County agents or employees, inspection of all records or other materials which the County deems pertinent to the Agreement and its performance, and any and all communications with or evaluations by service recipients under this Agreement. The Contractor shall preserve and maintain all financial records and records relating to the performance of work under this Agreement for 3 years after contract termination, and shall make them available for such review, within Pierce County, State of Washington, upon request.

19. SERVICES PROVIDED IN ACCORDANCE WITH LAW

The Contractor shall comply with all applicable laws, rules, ordinances, codes, and regulations of local, state, and federal governments, as now or hereafter enacted or amended.

It is the contractor’s responsibility to comply with all state and federal law in performing the tasks undertaken with respect to this contract. As applicable and required by Federal and State Law, the following provisions and references are included in this contract:

Equal Employment Opportunity – All contracts shall contain a provision requiring compliance with E.O. 11246, “Equal Employment Opportunity,” as amended by E.O. 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and as supplemented by regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, and Department of Labor.”

Copeland “Anti-Kickback” Act (18 U.S.C. 874 and 40 U.S.C. 276c) – All contracts and subgrants in excess of \$2,000 for construction or repair awarded by recipients and subrecipients shall include a provision for compliance with the Copeland “Anti-Kickback” Act (18 U.S.C. 874), as supplemented by Department of Labor regulations (29 CFR part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The recipient shall report all suspected or reported violations to the Federal awarding agency.

Contract Work Hours and Safety Standards Act (40 U.S.C 327-333) – Where applicable, all contracts awarded by recipients in excess of \$2,000 for construction contracts and in excess of \$2,500 for other contracts that involve the employment of mechanics or laborers shall include a provision for compliance with Sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), as supplemented by Department of Labor regulations (29 CFR part 5). Under Section 102 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours.

Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than 1 ½ times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended – Contractors and subgrants of amounts in excess of \$100,000 shall contain a provision that requires the recipient to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.) Violations shall be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) – Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose any lobbying in non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

The Federal Water Pollution Control Act of 1972, as amended, including The Clear Water Act of 1977, Public Law 92-212 (22 U.S.C. Section 1251 et seq.). The APPLICANT must assure compliance with the Water Pollution Control Act, as amended, which provides for the restoration of chemical, physical, and biological integrity of the nation's water.

20. SAFEGUARDING CLIENT INFORMATION

The use or disclosure by any person of any identifying information concerning an applicant or recipient for any purpose not directly connected with the administration of the County's or the Contractor's responsibilities with respect to services provided under this Agreement is prohibited, except as permitted by law and on informed written consent of the applicant or recipient, his or her attorney or responsible parent or guardian; provided that the County and the Contractor may disclose information to each other for purposes directly connected with the administration of their programs. This includes, but is not limited to determining eligibility, providing services and/or benefits, and participating in an audit.

EXHIBIT B - COMPENSATION

The County agrees to pay the Contractor for services outlined in Exhibit A. The maximum consideration for this Agreement shall not exceed \$500,000.00 per contract year. Payment for the work will be authorized by the Program Supervisor and be made to the Contractor within twenty five (25) working days of an acceptable final inspection by County Staff. Payment by the County is subject to receipt of funds from the Federal, State, and Local Agencies that support the Home Repair, Weatherization, and Energy Assistance Programs. If the County cannot make payments to the contractor due to nonpayment from the Funding Agencies the failure to pay from the County shall not constitute a breach of contract.

Subject to the terms and conditions of this Agreement, the Contractor must submit a Contract Payment Request Form on a monthly basis within twenty one (21) working days following the month in which the Contractor has incurred expenditures for services and costs as outlined in this Agreement. The amount requested must be supported by actual costs incurred and paid for by the contractor/vendor. The County must issue payment no later than twenty five (25) working days after the receipt of complete and accurate billing information as determined by the County. The submission of incomplete or inaccurate billing information may delay the reimbursement process, and shall not be considered a breach of contract.

Due to County fiscal year and contract close out requirements, the Contractor must submit final Contract Payment Request for the month of December and the final billing for the contract based on a schedule determined by the County. Failure to follow the year end and final invoice instructions may result in a delayed payment or nonpayment for the given month. The County will provide timely written notification, via a formal letter or an e-mail, of the submission requirements for these time frames.

A W-9 Form must be completed, signed, and included with the acceptance of this agreement.

Future Non-Allocation of Funds:

Notwithstanding any other terms of this Agreement, if sufficient funds are not appropriated or allocated for payment under this contract for any future fiscal period, the County will not be obligated to make payment for services or amounts after the end of the fiscal period through which funds have been appropriated and allocated, unless authorized by county ordinance. No penalty or expense shall accrue to the County in the event this provision applies.

EXHIBIT C – SPECIAL PROVISIONS**1. Accounting and Payment for Contractor Services:**

Payment to the Contractor for services rendered under this Agreement shall be as set forth in Exhibit "B." Where Exhibit "B" requires payments by Pierce County, payment shall be based upon billings, supported unless otherwise provided in Exhibit "B," by documentation of units of work actually performed and amounts earned, including where appropriate, the actual number of days worked each month, total number of hours for the month, and the total dollar payment requested. Unless specifically stated in Exhibit "B" or approved in writing in advance by the official executing this Agreement for Pierce County, (hereinafter referred to as the "Contracting Officer",) the County will not reimburse the Contractor for any costs or expenses incurred by the Contractor in the performance of this contract.

Where required, the County shall, upon receipt of appropriate documentation, compensate the Contractor, no more often than monthly, through the County voucher system for the Contractor's service pursuant to the fee schedule set forth in Exhibit "B."

2. Independent Contractor:

The Contractor's services shall be furnished by the Contractor as an independent Contractor and nothing herein contained shall be construed to create a relationship of employer-employee or master-servant, but all payments made hereunder and all services performed shall be made and performed pursuant to this Agreement by the Contractor as an independent Contractor.

The Contractor acknowledges that the entire compensation for this Agreement is specified in Exhibit "B" and the Contractor is not entitled to any County benefits including, but not limited to: vacation pay, holiday pay, sick leave pay, medical, dental, or other insurance benefits, or any other rights or privileges afforded to Pierce County employees. The Contractor represents that he/she/it maintains a separate place of business, serves clients other than the County, will report all income and expense accrued under this contract to the Internal Revenue Service, and has a tax account with the State of Washington Department of Revenue for payment of all sales and use and Business and Occupation taxes collected by the State of Washington.

Contractor will defend, indemnify and hold harmless the County, its officers, agents or employees from any loss or expense, including but not limited to settlements, judgments, setoffs, attorneys' fees or costs incurred by reason of claims or demands because of breach of the provisions of this paragraph.

3. No Guarantee of Employment:

The performance of all or part of this contract by the Contractor shall not operate to vest any employment rights whatsoever and shall not be deemed to guarantee any employment of the Contractor or any employee of the Contractor or any subcontractor or any employee of any subcontractor by the County at the present time or in the future.

4. Taxes:

The Contractor understands and acknowledges that the County will not withhold Federal or State income taxes. Where required by State or Federal law, the Contractor authorizes the County to make withholding for any taxes other than income taxes (i.e., Medicare). All compensation received by the Contractor will be reported to the Internal Revenue Service at the end of the calendar year in accordance with the applicable IRS regulations. It is the responsibility of the Contractor to make the necessary estimated tax payments throughout the year, if any, and the Contractor is solely liable for any tax obligation arising from the Contractor's performance of this Agreement. The Contractor hereby agrees to indemnify the County against any demand to pay taxes arising from the Contractor's failure to pay taxes on compensation earned pursuant to this Agreement.

The County will pay sales and use taxes imposed on goods or services acquired hereunder as required by law. The Contractor must pay all other taxes including, but not limited to Business and Occupation Tax, taxes based on the Contractor's gross or net income, or personal property to which the County does not hold title. The County is exempt from Federal Excise Tax.

5. Regulations and Requirement:

This Agreement shall be subject to all laws, rules, and regulations of the United States of America, the State of Washington, and political subdivisions of the State of Washington, and to any other provisions set forth in Exhibit "D."

6. Defend, Hold Harmless and Indemnify:

- a. The Contractor and its officers, agents, employees, subcontractors and/or consultants, agree to defend, indemnify and save harmless Pierce County, the Department of Housing and Urban Development, and the State of Washington's Department of Commerce and all other departments and agencies of the State, and their appointed and elective officers and employees, from and against all loss or expense including, but not limited to, judgments, settlements, attorney's fees and costs by reason of any and all claims and demands upon Pierce County, the Department of Housing and Urban Development, and the State of Washington's Department of Commerce, and their elected or appointed officials or employees, for damages because of personal or bodily injury, including death, at any time resulting therefrom, sustained by any person or persons, or on account of damage to property, including loss of use thereof, whether such injury to persons or damage to property is due to the negligence of the Contractor, its officers, agents, employees, subcontractors, and/or consultants, successor or assigns, or Pierce County, the Department of Housing and Urban Development, and the State of Washington's Department of Commerce, or their appointed or elected officers, employees or agents, except only such injury or damage as shall have been occasioned by the sole negligence of Pierce County, the Department of Housing and Urban Development, and the State of Washington's Department of Commerce, or their appointed or elected officials or employees. The Contractor's obligation to indemnify, defend, and hold harmless shall not be eliminated by any actual or alleged concurrent negligence of Pierce County, the Department of Housing and Urban Development, and the State of Washington's Department of Commerce, or their agents, agencies, employees and officers, except as provided below.
- b. The Contractor agrees that the obligation to indemnify, defend, and hold Pierce County, the Department of Housing and Urban Development, and the State of Washington's Department of Commerce harmless as provided above extends to any claim brought on behalf of any employee of the Contractor and its subcontractors or consultants. The Contractor specifically and expressly waives any immunity under Insurance Title 51, RCW, and acknowledges that this waiver was mutually negotiated and agreed to by the parties herein.
- c. The following paragraph applies to all work in connection with or collateral to, a contract or agreement relative to construction, alteration, repair, addition to, subtraction from, improvement to, or maintenance of, any building, highway, road, railroad, excavation, or other structure, project, development, or improvement attached to real estate, including moving and demolition in connection therewith:

If the claim, suit, or action for injuries, death, or damages as provided for in the preceding paragraph is caused by or results from the concurrent negligence of the County or the County's agents or employees, and the Contractor or its officers, agents, or employees, the indemnity provisions provided for in this Agreement shall be valid and enforceable only to the extent of the Contractor's negligence.

- d. The Contractor shall bear sole responsibility for damage to completed portions of the project and to property located off the project caused by erosion, siltation, run-off, or other related items arising during construction of the project. The Contractor shall also bear sole responsibility for any pollution of rivers, streams, ground water, or other waters which may occur as a result of construction operations.

The Contractor shall exercise all necessary precautions throughout the life of the project to prevent pollution, erosion, siltation, and damage to property.

- e. In addition to any other remedy authorized by law, the County may retain so much of the money otherwise due the Contractor as deemed necessary by the County to ensure indemnification until disposition has been made of such suits or claims under subject to the provisions of this section.

EXHIBIT D - COMPLIANCE WITH LOCAL AND FEDERAL REGULATIONS

The Contractor and its consultants and subcontractors shall comply with the following federal laws and regulations, whenever and wherever they are applicable. The Contractor and its consultants and contractors shall timely obtain all permits and approvals necessary to lawfully implement the project. The Contractors and its subcontractors and consultants shall include in all contracts, subcontracts, and purchase orders for this project the following list of laws and regulations and shall require compliance with such laws and requirements:

- A. Title VI of the Civil Rights Act of 1964 (P.L. 88-352) relating to non-discrimination in performance of the project and to the benefits deriving from it as implemented by HUD regulation 24 CFR 570.601 (a).
- B. Title VIII of the Civil Rights Act of 1968 (P.L. 90-284) as amended, relating to non-discrimination in housing as implemented by HUD regulation 24 CFR 570.601 (b).
- C. Executive Order 11063 relating to non-discrimination in housing as amended by Executive Order 12259 and as implemented by HUD regulation 24 CFR 570.601 (c).
- D. Construction projects must comply with the applicable requirements of Section 504 of the Rehabilitation Act of 1973 and The Americans with Disabilities Act of 1990 (ADA).
- E. Section 109 of the Housing and Community Development Act of 1974 as amended, dealing with non-discrimination in program benefits because of race, religion, color, age, national origin, sex, or disability as implemented by HUD regulation 24 CFR 570.602.
- F. The construction labor standards and wage rates set forth in Section 110 of the Housing and Community Development Act of 1974 as amended and as implemented by HUD regulation 24 CFR 570.603.
- G. The Davis-Bacon Act (DBA) and Related Acts or HUD-assisted (DBRA) (40 U.S.C. 276a-276a-5) provides that contracts to which federal funding is applied for the construction, alteration, and/or repair, including painting and decorating, or of public buildings or public works, which involve the employment of laborers and/or mechanics, shall contain provisions with respect to minimum wages, fringe benefits, payments without deductions or rebates, withholding funds from contractors to ensure compliance with wage provisions, and termination of the contract or debarment for failure to adhere to the required provisions.
- H. Any construction performed as a part of this agreement is considered a public work project and subject to the Prevailing Wages on Public Works Act (Chapter 39.12 RCW). All bid specifications and contracts for public work projects must contain a provision stating the required prevailing rates of pay and stipulate that all workers shall receive no less than the higher of either the Davis-Bacon or Washington State prevailing rate of wage for work performed. All contractors and subcontractors working on this project are required to fully comply with these regulations.
- I. Executive Order 11246 dealing with non-discrimination in employment based on sex, sexual orientation, gender identity, or national origin, as amended by Executive Orders 11375, 11478, 12086, 12107, and 13672 and as implemented by HUD regulation 24 CFR 570.607 (a).

During the performance of this Agreement, the Contractor agrees as follows:

1. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
2. The Contractor will, in all solicitations or advancements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
3. The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the Contractor's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
4. The Contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
5. The Contractor will furnish all information and reports, required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the County and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
6. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this Agreement or with any of such rules, regulations, or orders, this Agreement may be cancelled, terminated or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
7. The Contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each Subcontractor or Vendor. The Contractor will take such action with respect to any subcontract or purchase order as the County may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the Contractor becomes involved in, or is threatened with litigation with a subcontractor or vendor as a result of such direction, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

- J. Section 3 of the Housing and Community Development Act of 1974 as amended, dealing with employment and training of County low-income residents as employees and trainees and utilization of Pierce County business as contractors, subcontractors, and suppliers as implemented by HUD regulations 24 CFR 570.607 (b):
1. The work to be performed under this Agreement is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low-and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
 2. The parties to this Agreement agree to comply with HUD's regulations in 24 CFR Part 135, which implement Section 3. As evidenced by their execution of this Agreement, the parties to this Agreement certify that they are under no contractual or other impediment that would prevent them from complying with the Part 135 regulations.
 3. The Contractor agrees to send to each labor organization or representative of workers with which the Contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the Contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
 4. The Contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. The Contractor will not subcontract with any subcontractor where the Contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.
 5. The Contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the Contractor is selected but before the contract is executed, and two (2) with persons other than those to whom the regulations of 24 CFR Part 135 require employment opportunities to be directed, were not filled to circumvent the Contractors obligations under 24 CFR Part 135.
 6. Noncompliance with HUD's regulations in 24 CFR Part 135 may result in sanctions, termination of this contact for default, and debarment or suspension from future HUD assisted contracts.
 7. With respect to work performed in connection with Section 3 covered Indian housing assistance, Section 7 (b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this Agreement. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this Agreement that are subject to the provisions of Section 3 and Section 7 (b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with Section 7(b).

- K. Executive Order 11988 relating to evaluation of flood hazards and the flood hazard and insurance protection requirements of Section 102(a) and 202(a) of the Flood Disaster Protection Act of 1973 (P.L. 93.234) as implemented by HUD regulation 24 CFR 570.605.
- L. The relocation, acquisition and displacement requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as implemented by HUD regulation 24 CFR 570.606. The relocation, acquisition and displacement requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as implemented by HUD regulation 24 CFR 570.606.
- M. The Lead Based Paint Poisoning Prevention Act (43.U.S.C. 4801 et seq.) as implemented by HUD regulation 24 CFR 570.608.
- N. The requirements of 2 CFR 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. (Formerly OMB Circulars A-21, A-87, A-110, A-122 and A-128) as they relate to the acceptance and use of Federal funds as implemented by HUD regulation 24 CFR 570.610.
- O. The National Environmental Policy Act (NEPA) of 1969 and other statutory environmental requirements as implemented by HUD regulation 24 CFR 570.604. See additional NEPA Requirements for this project below.
- P. Executive Orders 11625, 12138, and 12432, and Public Law 98-507, dealing with the use of minority and women owned business enterprises as implemented by HUD regulation 24 CFR 85.36(e).
- Q. The provisions of the Hatch Act limiting political activities of government employees.
- R. Executive Order 12888 relating to prevention, control and abatement of water pollution.
- S. HUD Regulations for implementing the Community Development Block Grant Program contained in 24 CFR 570.
- T. The Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282).
- U. The Drug-Free Workplace Act of 1988 (42 U.S.C. 701) and regulations set forth at 24 CFR Part 21.
- V. The Contractor will comply with all applicable Washington State requirements regarding liens, and shall disclose all potential lien claimants as a condition of payment and require the prime contractor to disclose all potential lien claimants prior to payment by the Contractor.
- W. Funding is subject to the National Environmental Policy Act (NEPA) regulations. The County must be contacted in the event that there are any changes to the project after completion of the NEPA process. The County must also be contacted in the event cultural resources are discovered during ground disturbance as a result of this project. The Contractor will include this condition in any contracts or subcontracts to complete the work.
 - 1. In accordance with Guidelines for the *Inadvertent Discovery of Human Skeletal Remains on Non-Federal and Non-Tribal Lands in the State of Washington*, any person engaging in ground disturbing activity that encounters skeletal human remains must cease all activity which may cause further disturbance to the remains, make a reasonable effort to protect the area from further disturbance, and report the presence and location of those remains to the county coroner and local law enforcement, (RCW 27.44; 68.50; 68.60). Pierce County Department of Human Services staff must then be contacted.

2. In the event that any potentially archaeological or historic materials are discovered during project activities, work in the immediate vicinity must stop, the area must be secured, and Pierce County Department of Human Services staff must be contacted. Thereafter, DCC staff must make contact with the concerned tribe's cultural staff and cultural committee and notify the Washington State Department of Archaeology and Historic Preservation.

Note: Copies of applicable laws and regulations are available upon request from the Department of Human Services. A listing of these applicable laws and regulations are to be incorporated in each contract, subcontract and consultant agreement issued by Contractor or its subcontractors.

EXHIBIT E - LABOR STANDARDS REQUIREMENTS AND PREVAILING WAGE RATES

(Prevailing Wage Applicable)

1. MINIMUM WAGE RATES FOR LABORERS, WORKMEN AND MECHANICS

- A. This section specifies the Minimum Prevailing Wage Requirements and other Labor Standards Requirements which are applicable to this Agreement. Prevailing wage rates and fringe benefits established by the State Department of Labor and Industries pursuant to RCW 39.12 are applicable to this project. A copy of those rates is incorporated at the conclusion of this Agreement.
- B. All laborers and mechanics employed or working upon the site will be paid those rates and benefits unconditionally, not less often than once a week, and without subsequent deduction or rebate on any account, except such payroll deductions as permitted by law or authorized by the employee. In addition, certain crafts where work is normally performed within a firm's shop (for example, custom cabinets, and sheet metal fabrication) require the payment of prevailing wage rates established by the State Department of Labor and Industries.
- C. Provisions of State Labor Standards Law (RCW 39.12) state in part that:

"The hourly wages to be paid laborers, workman or mechanics, upon all public works and under all public building service maintenance contracts of the state or any county, municipality or political subdivision created by its laws, shall not be less than the prevailing rate of wages for an hour's work in the same trade or occupation in the locality within the state where such labor is performed..."
- D. The contractor and each subcontractor shall, on or before the date of commencement of work, file an Intent To Pay Prevailing Wage form with Pierce County, under oath and approved by the Washington State Department of Labor and Industries, certifying each classification of laborers, workmen or mechanics employed upon the public work by the contractor or subcontractor and the rate of hourly wages and benefits paid, which shall not be less than the applicable State prevailing wage rates.
- E. Such statement and any subsequent statements (including the Affidavit of Wages Paid form) shall be filed in accordance with the practices and procedures required by the State Department of Labor and Industries. The contractor and its subcontractors shall pay all required fees for submittal and processing of such statements directly to the State Department of Labor and Industries.

NOTE: Until an approved copy of the Intent To Pay Prevailing Wage form is provided to the County for each project contractor, the County is prohibited by law from releasing any payment to the contractor for the work performed under this Agreement.

2. UNDERPAYMENTS OF WAGES OR BENEFITS

Wage restitution will be promptly made for underpayment of State prevailing wages and/or benefits by the contractor, or any subcontractor, to such laborers or mechanics when directed to do so by Pierce County or by the State of Washington Department of Labor & Industries.

Where the contractor or subcontractor fails to make prompt restitution when directed to do so by the County, in addition to such other rights as may be afforded it under this Agreement, may withhold from the contractor, out of any payments due them, so much of that payment as Pierce County may consider necessary to pay those laborers or mechanics the full amount of the prevailing wages and/or benefits required by this Agreement. The amount so withheld may be disbursed by Pierce County, for and on account of the contractor or the subcontractor, directly to the respective laborer(s) or mechanic(s) to whom the same is due, and the County may pay on their behalf an amount equal to such underpaid fringe benefits to approved benefit plans, funds, programs or trusts.

3. FRINGE BENEFITS

- A. Under Washington State law and regulations, fringe benefits owed to laborers and mechanics may be paid in a variety of ways. Benefits may be paid directly to laborers and mechanics as an addition to their hourly wage. They may also be paid to any union to which the laborer or mechanic belongs if authorized by a collective bargaining agreement to that effect. They may also be paid to a trustee or other third person, if a plan or program specifying such payments is pre-approved by Pierce County, and the affected employee(s) voluntarily agree to participate in the plan. Or, finally, benefits may be paid as some combination of the above.
- B. In the case of any benefit program, Pierce County requires the submittal of records showing employees involved in the plan, dollar and cent amounts paid to the program(s) for each employee, billings from the benefit program companies and payment records to those companies by the contractor.

4. FRINGE BENEFITS NOT EXPRESSED AS HOURLY WAGE RATES

Pierce County requires, whenever the minimum wage rates prescribed in the public works contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly wage rate, and whenever the contractor is obligated to pay the cash equivalent of such a fringe benefit, that an hourly cash equivalent be established for that class of laborer or mechanic, and be listed on the approved Statement of Intent to Pay Prevailing Wages form, approved by the State of Washington Department of Labor & Industries.

5. OVERTIME COMPENSATION

- A. Laborers or mechanics (including watchmen or guards) employed under this Agreement shall be compensated for any overtime earned for work in excess of eight (8) hours in any calendar day or forty
- B. (40) hours in any calendar week at a rate not less than one and one-half (1 ½) times the basic rate of pay for all hours worked in excess of eight (8) hours in any calendar day or in excess of forty (40) hours in any calendar week, as the case may be.
- C. Overtime need not be paid when a laborer or mechanic works more than eight (8) hours in a calendar day where the employee's union or the employee him/herself has expressly authorized the contractor or subcontractor to work a ten (10) hour day, four (4) day week. In that event, no work is to be performed beyond ten (10) hours in any calendar day and any work in excess of the forty (40) hour week shall be considered overtime to be paid as noted above.
- D. For any underpayment or failure to pay overtime compensation owed in accordance with the above, the contractor or subcontractor responsible for such underpayment or failure to pay overtime compensation shall be liable to any affected employee for his/her unpaid overtime. In the event that contractor or subcontractor fails to make prompt restitution to the affected laborer or mechanic when so directed by the County, Pierce County may, in addition to such other rights as may be afforded it under the Agreement, withhold or cause to be withheld, from any monies payable on account of work performed by the contractor or subcontractor, such sums as Pierce County may consider necessary to pay the overtime due such laborers and mechanics. The amount so withheld may be disbursed by Pierce County, for and on account of the contractor or subcontractor, directly to the respective laborers and mechanics.

6. EMPLOYMENT OF APPRENTICES/TRAINEES

- A. Apprentices and trainees will be permitted to work at less than the prevailing rate for the work they perform when they are employed and individually registered in a bona fide apprenticeship or training program registered with the State Labor and Industries apprenticeship agency. Individuals employed in the first ninety (90) days of probationary employment as an apprentice or trainee in such an apprenticeship and training program, who are not individually registered in the program, but who have been certified by the State apprenticeship agency to be eligible for probationary employment as an apprentice or trainee may also be permitted to work at less than the prevailing wage rate. The allowable ratio of apprentices or trainees to journeymen in any craft classification shall not be greater than the ratio permitted to the contractor as to his/her entire work force under the registered program.
- B. Any employee listed on a payroll at an apprentice or trainee wage rate, who is not an apprentice or trainee or is not registered or otherwise employed as stated above, shall be paid the full journeyman wage rate determined by the classification of work he/she actually performed.
- C. The contractor or subcontractor will be required to furnish to Pierce County Human Services Department written evidence of the registration of the apprenticeship or training program. Wage rates and the appropriate ratios (expressed in percentages of the journeyman hourly rates) for the apprentices and trainees for the area of construction shall be submitted prior to utilizing any apprentices or trainees on the public work. The wage rate paid apprentices and trainees shall be not less than the appropriate percentage of the journeyman's rate contained in the applicable wage determination.

7. PAYROLL RECORDS OF CONTRACTOR AND SUBCONTRACTORS

- A. The contractor and each subcontractor shall keep accurate payroll records, showing the name, address, final four digits of the Social Security number, work classification, straight time and overtime hours worked each day and week for this project **only**, and the actual rate of wages and fringe benefits paid, for each laborer, worker and mechanic employed by that contractor for work done under this Agreement.
- B. Routine, weekly submittal of certified payrolls may be required by this Agreement. Upon Request, the contractor and each subcontractor shall submit certified payrolls weekly to Pierce County Human Services.
- C. Where an employer has established a voluntary benefit program, the contractor or subcontractor shall maintain records which show that the commitment to provide benefits is enforceable, that the plan or laborers or mechanics affected, and which show the costs anticipated or the actual cost incurred in providing such benefits.
- D. Pierce County Human Services representatives shall be permitted to interview employees of the contractor or any subcontractor during working hours on the job at any time during the course of the Agreement. Each contractor and each subcontractor shall make its employment and benefit records available for inspection by Pierce County Human Services representatives during the course of this Agreement and preserved for a period of (3) three years thereafter.

8. CONTRACTORS AND SUBCONTRACTORS WHO ARE THEMSELVES PERFORMING WORK AS LABORERS AND MECHANICS

Owners-operators, partners, single proprietors and/or officers of firms providing labor on public works contracts, must keep accurate records of the time they work in the same manner as for any other employee. If the work accomplished by these individuals is principally supervisory, hourly wages and total wages paid such owner-operators need not be recorded.

9. APPLICABILITY OF PREVAILING WAGES FOR SUPERVISORS (WAC 296-127-015)

Determinations as to whether individuals are workers, laborers, or mechanics are based on the scope of work actually performed by the individuals, rather than the title of their occupations.

- A. Where additional supervisory duties are required of workers, laborers, or mechanics by statute or regulation, the industrial statistician shall establish a rate of pay for a work classification to be called "journey level in charge." These rates shall be published in the semiannual prevailing wage publication.
 - 1. Supervisors (e.g., foremen, general foremen, superintendents, etc.) are entitled to receive at least the journey level prevailing rate of wage for performing manual or physical labor:
 - 2. For each hour spent in the performance of manual or physical labor if it is for more than twenty percent but less than fifty percent of their hours worked on a public works project during any given week.
- B. For all hours worked in any given week if they perform manual or physical labor for fifty percent of more of their hours worked on a public works project during such week.
- C. If supervisors subject to the journey level prevailing wage rate are paid a salary, the compensation (salary divided by number of hours worked) must be equal to or greater than the prevailing wage rate for the type of work performed.

10. SPECIFIC COVERAGE OF CERTAIN TYPES OF WORK BY EMPLOYEES

The transporting of materials and supplies to or from the work site by the employees of the contractor or of any subcontractor, and the manufacturing or finishing of materials, articles, supplies, or equipment on the work site to which this agreement pertains by persons employed by the contractor or by any subcontractor, shall, for the purposes of this agreement, and without limiting the generality of the foregoing provisions of this public works contract, be deemed to be work to which these Labor Standards Provisions are applicable.

11. EMPLOYMENT OF CERTAIN PERSONS PROHIBITED

No person under the age of sixteen (16) years and no person who, at the time of his/her employment, is serving sentence in a penal or correctional institution shall be employed on the public work covered by this Agreement.

12. COMPLAINTS, PROCEEDINGS, OR TESTIMONY BY EMPLOYEES

No laborer or mechanic, to whom the wage, salary, or other labor standards provisions of this public works contract are applicable, shall be discharged or in any other manner discriminated against by the contractor or any subcontractor employed under this Agreement because such employee has filed any complaint, or instituted or caused to be instituted any proceeding, or has testified or is about to testify in any proceeding under or relating to the labor standards applicable under this Agreement.

Claims and disputes pertaining to wage rates or to classifications of laborers and mechanics employed under this Agreement shall be promptly reported by the contractor in writing to Pierce County.

13. POSTING WAGE DETERMINATIONS AND POSTERS ON JOBSITE

- A. The approved Statement of Intent to Pay Prevailing Wage forms for the contractor and each subcontractor employed under this Agreement are to be visibly posted where all employees have ready and free access to inspect their contents. This job site location will be checked by the Pierce County field monitor.

B. The following posters must be visibly posted where all employees have ready and free access to inspect their contents:

- SAFETY & HEALTH PROTECTION ON THE JOB - WISHA F416-081-000
- INDUSTRIAL INSURANCE POSTER - F242-191-000
- YOUR RIGHTS AS A WORKER - F700-053-000
- FAMILY CARE AND MATERNITY - F700-025-000
- APPROVED STATEMENT OF INTENT TO PAY PREVAILING WAGES
- COPY OF WAGE RATES FROM CONTRACT DOCUMENTS

14. PAY REQUESTS

No payment request will be approved until an approved copy of the Statement of Intent to Pay Prevailing Wages has been received by the Department of Human Services for the contractor and each subcontractor performing work under this Agreement. Furthermore, all payment requests must be accompanied by a statement from the contractor certifying that the prevailing wages for all work performed under this contract have been paid in accordance with the pre-filed Statement(s) of Intent To Pay Prevailing Wages on file with Pierce County Human Services.

15. BREACH OF LABOR STANDARDS PROVISIONS

In addition to any other causes for termination, Pierce County reserves the right to terminate this Agreement if the contractor or any subcontractor breaches any of these Labor Standards Provisions.

EXHIBIT F

GENERAL TERMS AND CONDITIONS

Weatherization Assistance Program (WAP)

1. DEFINITIONS

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

- A. "Authorized Representative" shall mean the Director and/or the designee authorized in writing to act on the Director's behalf.
- B. "Commerce" shall mean the Department of Commerce.
- C. "Grantee" shall mean the entity identified on the Face Sheet performing service(s) under this Grant, and shall include all employees and agents of the Grantee.
- D. "Personal Information" shall mean information identifiable to any person, including, but not limited to, information that relates to a person's name, health, finances, education, business, use or receipt of governmental services or other activities, addresses, telephone numbers, social security numbers, driver license numbers, other identifying numbers, and any financial identifiers.
- E. "State" shall mean the state of Washington.
- F. "Subgrantee/subcontractor" shall mean one not in the employment of the Grantee, who is performing all or part of those services under this Grant under a separate Grant with the Grantee. The terms "Subgrantee/subcontractor" refers to any tier.
- G. "Subrecipient" shall mean a non-federal entity that expends federal awards received from a pass-through entity to carry out a federal program, but does not include an individual that is a beneficiary of such a program. It also excludes vendors that receive federal funds in exchange for goods and/or services in the course of normal trade or commerce.
- H. "Vendor" is an entity that agrees to provide the amount and kind of services requested by Commerce; provides services under the Grant only to those beneficiaries individually determined to be eligible by Commerce, and provides services on a fee-for-service or per-unit basis with contractual penalties if the entity fails to meet program performance standards.

2. ACCESS TO DATA

In compliance with RCW 39.26.180, the Grantee shall provide access to data generated under this Grant to Commerce, the Joint Legislative Audit and Review Committee, and the Office of the State Auditor at no additional cost. This includes access to all information that supports the findings, conclusions, and recommendations of the Grantee's reports, including computer models and the methodology for those models.

3. ADVANCE PAYMENTS PROHIBITED

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

4. ALL WRITINGS CONTAINED HEREIN

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

5. AMENDMENTS

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

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

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

7. ASSIGNMENT

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

8. ATTORNEYS’ FEES

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

9. AUDIT

A. General Requirements

- Grantees are to procure audit services based on the following guidelines.
- The Grantee shall maintain its records and accounts so as to facilitate the audit requirement and shall ensure that Subgrantees/subcontractors also maintain auditable records.
- The Grantee is responsible for any audit exceptions incurred by its own organization or that of its Subgrantees/subcontractors.
- Commerce reserves the right to recover from the Grantee all disallowed costs resulting from the audit.
- Responses to any unresolved management findings and disallowed or questioned costs shall be included with the audit report. The Grantee must respond to Commerce requests for information or corrective action concerning audit issues within thirty (30) days of the date of request.

B. Federal Funds Requirements – 2 CFR Part 200

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

- Grantor agency name
- Federal agency
- Federal program name
- Other identifying contract numbers
- Catalog of Federal Domestic Assistance (CFDA) number (if applicable)
- Grantor contract number

- Total award amount including amendments (total grant award)
- Current year expenditures

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

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

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

C. Documentation Requirements

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

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

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

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

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

A. Grantee, defined as the primary participant in accordance with 45 CFR Part 76, and its principals, certifies by signing these General Terms and Conditions that to the best of its knowledge and belief that they:

- 1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions, by any Federal department or agency.
- 2) Have not within a three-year period preceding this Grant, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction, violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice;
- 3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of federal Executive Order 12549; and
- 4) Have not within a three-year period preceding the signing of this Grant had one or more public transactions (Federal, State, or local) terminated for cause of default.
- 5) Where the Grantee is unable to certify to any of the statements in this Grant, the Grantee shall attach an explanation to this Grant.

- 6) The Grantee agrees by signing this Grant that it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by Commerce.
- 7) The Grantee further agrees by signing this Grant that it will include the clause titled “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction,” as follows, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions:

LOWER TIER COVERED TRANSACTIONS

- a) The lower tier Grantee certifies, by signing this Grant that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- b) Where the lower tier Grantee is unable to certify to any of the statements in this Grant, such Grantee shall attach an explanation to this Grant.
- c) The terms **covered transaction, debarred, suspended, ineligible, lower tier covered transaction, person, primary covered transaction, principal, and voluntarily excluded**, as used in this section, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact Commerce for assistance in obtaining a copy of these regulations.

11. CONFIDENTIALITY/SAFEGUARDING OF INFORMATION

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

- C. Unauthorized Use or Disclosure. The Grantee shall notify Commerce within five (5) working days of any unauthorized use or disclosure of any confidential information, and shall take necessary steps to mitigate the harmful effects of such use or disclosure.

12. CONFLICT OF INTEREST

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

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

13. COPYRIGHT PROVISIONS

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

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

For Materials that are delivered under the Grant, but that incorporate pre-existing materials not produced under the Grant, the Grantee hereby grants to Commerce a nonexclusive, royalty-free, irrevocable license (with rights to sublicense to others) in such Materials to translate, reproduce, distribute, prepare derivative works, publicly perform, and publicly display. The Grantee warrants and represents that the Grantee has all rights and permissions, including intellectual property rights, moral rights and rights of publicity, necessary to grant such a license to Commerce. The Grantee shall exert all reasonable effort to advise Commerce, at the time of delivery of Materials furnished under this Grant, of all known or potential invasions of privacy contained therein and of any portion of such document which was not produced in the performance of this Grant. The Grantee shall provide Commerce with prompt written notice of each notice or claim of infringement received by the Grantee with respect to any Materials delivered under this Grant. Commerce shall have the right to modify or remove any restrictive markings placed upon the Materials by the Grantee.

14. DISPUTES

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

The request for a dispute hearing must:

- be in writing;
- state the disputed issues;

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

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

The Director or designee shall review the written statements and reply in writing to both parties within ten (10) working days. The Director or designee may extend this period if necessary by notifying the parties. The decision shall not be admissible in any succeeding judicial or quasi-judicial proceeding. The parties agree that this dispute process shall precede any action in a judicial or quasi-judicial tribunal. Nothing in this Grant shall be construed to limit the parties' choice of a mutually acceptable alternate dispute resolution (ADR) method in addition to the dispute hearing procedure outlined above.

15. DUPLICATE PAYMENT

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

16. GOVERNING LAW AND VENUE

Venue shall be in any of the three superior courts authorized by RCW 36.01.050 for actions against Pierce County.

17. INDEMNIFICATION (Not applicable to Self-Insured Grantees)

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

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

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

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

18. INDEPENDENT CAPACITY OF THE GRANTEE

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

19. INDUSTRIAL INSURANCE COVERAGE

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

20. LAWS

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

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

- 2 CFR Part 200 (see General Terms and Condition, #9 Audit)

Labor and Safety Standards

- Convict Labor, 18 U.S.C. 751, 752, 4081, 4082.
- Drug-Free Workplace Act of 1988, 41 USC 701 et seq.
- Federal Fair Labor Standards Act, 29 U.S.C. 201 et seq.
- Work Hours and Safety Standards Act, 40 U.S.C. and Department of Labor Regulations, 29 CFR Part 5.

Laws against Discrimination

- Age Discrimination Act of 1975, Public Law 94-135, 42 U.S.C. 6101-07, 45 CFR Part 90
- Nondiscrimination in Federally Assisted Programs.
- Americans with Disabilities Act of 1990, Public Law 101-336.
- Equal Employment Opportunity, Executive Order 11246, as amended by Executive Order 11375 and supplemented in U.S. Department of Labor Regulations, 41 CFR Chapter 60.
- Executive Order 11246, as amended by EO 11375, 11478, 12086 and 12102.
- Employment under Federal Contracts, Rehabilitation Act of 1973, Section 503, 29 U.S.C. 793.
- Nondiscrimination under Federal Grants, Rehabilitation Act of 1973, Section 504, 29 U.S.C. 794.
- Minority Business Enterprises, Executive Order 11625, 15 U.S.C. 631.
- Minority Business Enterprise Development, Executive Order 12432, 48 FR 32551.
- Nondiscrimination and Equal Opportunity, 24 CFR 5.105(a).
- Nondiscrimination in benefits, Title VI of the Civil Rights Act of 1964, Public Law 88-352, 42 U.S.C. 2002d et seq, 24 CFR Part 1.
- Nondiscrimination in employment, Title VII of the Civil Rights Act of 1964, Public Law 88-352.
- Nondiscrimination in Federally Assisted Construction Contracts, Executive Order 11246, 42 U.S.C. 2000e, as amended by Executive Order 11375, 41 CFR Chapter 60.
- Section 3, Housing and Urban Development Act of 1968, 12 USC 1701u (See 24 CFR 570.607(b)).

Office of Management and Budget (OMB) Circulars

- 2 CFR Part 200.
- Cost Principles for State, Local and Indian Tribal Governments, OMB Circular A-87, 2 CFR, Part 225.
- Cost Principles for Nonprofit Organizations, OMB Circular A-122 (if the Contractor is a nonprofit organization).
- Grants and Cooperative Agreements with State and Local Governments, OMB Circular A-102 (if the Contractor is a local government or federally recognized Indian tribal government).
- Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals and Other Nonprofit Organizations, OMB Circular A-110.

Other

- Anti-Kickback Act, 18 U.S.C. 874, 40 U.S.C. 276b, 276c; 41 U.S.C. 51-54.
- Governmental Guidance for New Restrictions on Lobbying; Interim Final Guidance, Federal Register 1, Vol. 54, No. 243\Wednesday, December 20, 1989.
- Hatch Political Activity Act, 5 U.S.C. 1501-8.
- Lobbying and Disclosure, 42 USC 3537a and 3545 and 31 USC 1352. (Byrd Anti-Lobbying Amendment).

31 U.S.C. 1352 provides that Contractors who apply or bid for an award of \$100,000 or more must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or other award covered by 31 U.S.C. 1352. Each tier must disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

- Non-Supplanting Federal Funds.
- Section 8 Housing Assistance Payments Program.

Privacy

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

Washington State Laws and Regulations

- Affirmative action, RCW 41.06.020 (1).
- Boards of directors or officers of non-profit corporations – Liability - Limitations, RCW 4.24.264.
- Disclosure-campaign finances-lobbying, Chapter 42.17A RCW.
- Discrimination-human rights commission, Chapter 49.60 RCW.
- Ethics in public service, Chapter 42.52 RCW.
- Office of minority and women's business enterprises, Chapter 39.19 RCW and Chapter 326-02 WAC.
- Open public meetings act, Chapter 42.30 RCW.
- Public records act, Chapter 42.56 RCW.
- State budgeting, accounting, and reporting system, Chapter 43.88 RCW.

21. LICENSING, ACCREDITATION, AND REGISTRATION

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

22. LIMITATION OF AUTHORITY

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

23. NONCOMPLIANCE WITH NONDISCRIMINATION LAWS

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

24. POLITICAL ACTIVITIES

Political activity of Grantee employees and officers are limited by the State Campaign Finances and Lobbying provisions of Chapter 42.17A RCW and the Federal Hatch Act, 5 USC 1501 - 1508. No funds may be used under this Grant for working for or against ballot measures or for or against the candidacy of any person for public office.

25. PROCUREMENT STANDARDS FOR FEDERALLY FUNDED PROGRAMS

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

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

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

- 1) A code or standard of conduct that shall govern the performance of its officers, employees, or agents engaged in the awarding of contracts using federal funds.
- 2) Procedures that ensure all procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition.
- 3) Minimum procedural requirements, as follows:
 - a) Follow a procedure to assure the avoidance of purchasing unnecessary or duplicative items.
 - b) Solicitations shall be based upon a clear and accurate description of the technical requirements of the procured items.
 - c) Positive efforts shall be made to use small and minority-owned businesses.

- d) The type of procuring instrument (fixed price, cost reimbursement) shall be determined by the Grantee, but must be appropriate for the particular procurement and for promoting the best interest of the program involved.
- e) Contracts shall be made only with reasonable subgrantees/subcontractors that possess the potential ability to perform successfully under the terms and conditions of the proposed procurement.
- f) Some form of price or cost analysis should be performed in connection with every procurement action.
- g) Procurement records and files for purchases shall include all of the following:
 - Contractor selection or rejection.
 - The basis for the cost or price.
 - Justification for lack of competitive bids if offers are not obtained.
- h) A system for contract administration to ensure contractor conformance with terms, conditions and specifications of this Contract, and to ensure adequate and timely follow-up of all purchases.
- i) Contractor and Subgrantee/subcontractor must receive prior approval from Commerce for using funds from this Grant to enter into a sole source contract or contract where only one bid or proposal is received when value of this contract is expected to exceed \$5,000.

Prior approval requests shall include a copy of proposed contracts and any related procurement documents and justification for non-competitive procurement, if applicable.

26. PUBLICITY

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

27. RECAPTURE

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

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

28. RECORDS MAINTENANCE (Performance Measures)

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

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

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

29. REGISTRATION WITH DEPARTMENT OF REVENUE

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

30. RIGHT OF INSPECTION

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

31. SAVINGS

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

32. SEVERABILITY

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

33. SITE SECURITY

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

34. SUBGRANTING/SUBCONTRACTING

The Grantee may only subcontract work contemplated under this Grant if it obtains the prior written approval of Commerce.

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

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

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

35. SURVIVAL

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

36. TAXES

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

37. TERMINATION FOR CAUSE

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

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

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

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

38. TERMINATION FOR CONVENIENCE

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

39. TERMINATION PROCEDURES

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

Commerce shall pay to Grantee the agreed upon price, if separately stated, for completed work and services accepted by Commerce, and the amount agreed upon by the Grantee and Commerce for (i) completed work and services for which no separate price is stated, (ii) partially completed work and services, (iii) other property or services that are accepted by Commerce, and (iv) the protection and preservation of property, unless the termination is for default, in which case the Authorized

Representative shall determine the extent of the liability of Commerce. Failure to agree with such determination shall be a dispute within the meaning of the "Disputes" clause of this Grant. Commerce may withhold from any amounts due the Grantee such sum as the Authorized Representative determines to be necessary to protect Commerce against potential loss or liability.

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

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

- a) Stop work under the Grant on the date, and to the extent specified, in the notice;
- b) Place no further orders or subgrants/subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the work under the Grant that is not terminated;
- c) Assign to Commerce, in the manner, at the times, and to the extent directed by the Authorized Representative, all of the rights, title, and interest of the Grantee under the orders and subgrants/subcontracts so terminated, in which case Commerce has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subgrants/subcontracts;
- d) Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the Authorized Representative to the extent Authorized Representative may require, which approval or ratification shall be final for all the purposes of this clause;
- e) Transfer title to Commerce and deliver in the manner, at the times, and to the extent directed by the Authorized Representative any property which, if the Grant had been completed, would have been required to be furnished to Commerce;
- f) Complete performance of such part of the work as shall not have been terminated by the Authorized Representative; and
- g) Take such action as may be necessary, or as the Authorized Representative may direct, for the protection and preservation of the property related to this Grant, which is in the possession of the Grantee and in which Commerce has or may acquire an interest.

40. TREATMENT OF ASSETS

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

- A. Any property of Commerce furnished to the Grantee shall, unless otherwise provided herein or approved by Commerce, be used only for the performance of this Grant.
- B. The Grantee shall be responsible for any loss or damage to property of Commerce that results from the negligence of the Grantee or which results from the failure on the part of the Grantee to maintain and administer that property in accordance with sound management practices.

- C. If any Commerce property is lost, destroyed or damaged, the Grantee shall immediately notify Commerce and shall take all reasonable steps to protect the property from further damage.
- D. The Grantee shall surrender to Commerce all property of Commerce prior to settlement upon completion, termination, or cancellation of this Grant.

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

41. WAIVER

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

42. LOW INCOME WEATHERIZATION ASSISTANCE PROGRAM

The contractor agrees to be bound by the General Terms and Conditions of the Washington State Department of Commerce Low Income Weatherization Assistance Program (WAP), which is available upon request.

43. SALES TAX EXEMPTION FOR WEATHERIZATION MATERIALS

- A. The Contractor must provide the County with a copy of their Buyer’s Retail Sales Tax Exemption Certificate.
- B. The Contractor must use the sales tax exemption.
- C. Pierce County will deny reimbursement to the contractor of any sales tax for listed materials.
- D. This exemption only applies to work awarded by the Weatherization program.
- E. Work awarded by the Home Repair or Energy Assistance programs do not qualify for the sales tax exemption.

Background

The Washington State Department of Commerce administers the weatherization program using state, federal, utility, and other funds. The Department of Commerce contracts with community action agencies, local governments, Indian Nations and associations, and other community-based organizations to deliver weatherization services to low-income clients. The purpose of the exemption is to lower the cost of weatherization improvements so that more low income households can be served under the Department of Commerce’s weatherization program.

Section 6.4 (b) of the Weatherization Policy manual states, “Local agencies making weatherization improvements under the weatherization program for low-income homeowners or renters are eligible for exemption from state sales tax and use tax. Purchases of qualified materials must be accompanied by a Buyers’ Retail Sales Tax Exemption Certificate. See Washington State Department of Revenue Special Notice: Sales and Use Tax Exemption for the Weatherization Assistance Program. (Attached)

Sales Tax Exemption for Weatherization Materials

In accordance with RCW 82.08.998 – Exemptions: Weatherization of a residence.

(1) The tax imposed by RCW 82.08.020 does not apply to sales of tangible personal property used in the weatherization of a residence under the weatherization assistance program under chapter 70.164 RCW. The exemption only applies to tangible personal property that becomes a component of the residence.

(2) The exemption is available only when the buyer provides the seller with an exemption certificate in a form and manner prescribed by the department. The seller must retain a copy of the certificate for the seller's files.

(3) "Residence" and "weatherization" have the meanings provided in RCW 70.164.020.

Qualifying Materials

Tangible personal property that becomes a component part of a qualifying residence under the weatherization program is eligible for the exemption from sales tax and use tax. Examples of qualifying weatherization materials include, but are not limited to the following:

- Insulation and sealants
- Parts for air infiltration
- Heating and cooling equipment
- Supplies used to seal and repair ducts

Taking the Exemption

All weatherization program contractors are eligible for the exemption. When purchasing qualifying materials, a contractor must provide a completed Buyers' Retail Sales Tax Exemption Certificate. The exemption certificate is available as a fill-in form online at <http://dor.wa.gov>, click on "Get a Form or Publication." Charges for labor and services used to install these materials continue to be subject to sales tax and use tax.

NOTICE TO LABOR UNIONS OR OTHER EMPLOYMENT AGENCIES

NOTE: If you are not affiliated with any labor unions or other employment agencies, so indicate by checking this box and signing below. No further information will be required.

To: _____
(Name of union or organization)

Subj.: Non discrimination in employment

RE: _____
(Project title)

The undersigned is the recipient of a contract or subcontract funded by Community Development Block Grant funds provided by the U.S. Department of Housing and Urban Development through the Pierce County Human Services Connections Department, and is bound by the provisions of Executive Order 11246 as amended, the Civil Rights Act, the Housing and Community Development Act and other federal and local laws and regulations. Pursuant to the requirements of said contract or subcontract, it is the policy of this company not to discriminate against any employee because of race, color, creed, sex, age, national origin, income level, or veteran status. In addition, this company will take affirmative action to employ, and to ensure said employees are treated during their employment, without regard to race, color, creed, sex, age, national origin, income level, or veteran status. Such action shall include, but not be limited to activities related to:

Employment, Upgrading, Transfer or Demotion

Recruitment and Advertising

Rates of Pay or other forms of compensation

Selection for training including apprenticeship, layoff, or termination

Please be advised that we are required in the performance of this contract to take Affirmative Action to recruit, and provide employment opportunities for women, minorities, and Pierce County low-income residents. When we are seeking referral of applicants for employment, you are requested to furnish names of qualified women, minorities, and Pierce County low-income residents whenever, and wherever possible. If, for some reason this request cannot be met, please so advise us in writing.

Please respond, indicating your understanding of our employment needs, and pledging your assistance and cooperation in meeting our equal opportunity and affirmative action obligations.

Contractor: _____

By: _____

(Typed or printed name)

AFFIRMATIVE ACTION PROGRAM FOR CONTRACTORS AND SUBCONTRACTORS PLAN 1

Contractor Name _____
 Address _____
 City _____ State _____
 E.E.O. Officer _____
 Phone Number _____
 Sub-Contractor _____ Prime Contractor _____

Contract _____
 Date Awarded _____
 Contract Working Days _____
 Location _____
 Work Element _____
 Est. Start Date _____

Contractor's Present Work Force (all employees, may attach additional pages if needed):

Job Categories	Total Employees	Total Minorities	# & Demographic Code (see below)	Women	Apprentice / Trainee

*Use EEO-1 Job Categories. See U.S. Equal Employment Opportunity Commission web site at: www.eeoc.gov

Contractor's Projected Work Force – This Project (employees this project, may attach additional pages if needed):

Job Categories	Total Employees	Total Minorities	# & Demographic Code (see below)	Women	Apprentice / Trainee

*Use EEO-1 Job Categories. See U.S. Equal Employment Opportunity Commission web site at: www.eeoc.gov Demographic Codes:

- W = White
- B = Black/African American
- NH = Native Hawaiian/Other Pacific Islander
- 2+ = Two or more races
- A = Asian
- AI = American Indian/Alaskan Native
- AI = American Indian/Alaskan Native

Total New or Additional Employees Required: _____

AFFIRMATIVE ACTION PROGRAM FOR CONTRACTORS AND SUBCONTRACTORS PLAN D

Project Name: _____

Organization Name: _____

Subgrantee _____

Consultant _____

Prime Contractor _____

Subcontractor _____

1. Each agency, organization, firm or individual receiving HUD Community Development Block Grant (CDBG) funds through the Pierce County is responsible:
 - a. To encourage participation of Women and Minority Business Enterprises, and Pierce County as contractors, subcontractors and suppliers on physical improvement projects;
 - b. To treat all employees and applicants for employment in a non-discriminatory manner;
 - c. To take affirmative action to counter the effects of past discrimination to women, minority and disabled employees; and
 - d. To encourage participation of Pierce County lower-income residents and otherwise qualified disabled individuals as employees and/or trainees.

Each organization, firm, or individual receiving CDBG funds is required, as a condition of acceptance, to indicate the affirmative action it will take to meet these obligations as follows:

PART I – NEW HIRE EMPLOYEES (for your entire organization):

1. During the period of this project, we expect to employ ____ new full-time employees. We expect that number of new employees to include:
 - Minorities
 - Women
 - Lower-income Pierce County residents
 - Otherwise qualified disabled individuals
2. In addition, during the period of this project, we expect to employ ____ trainees, comprised of:
 - Minorities
 - Women
 - Lower-income Pierce County residents
 - Otherwise qualified disabled individuals
3. Further, during the period of this project we expect to employ ____ part-time employees comprised of:
 - Minorities
 - Women
 - Lower-income Pierce County residents
 - Otherwise qualified disabled individuals
4. To attempt to encourage M/WBE participation to meet the State of Washington and U. S. Department of Labor M/WBE goals, and to actively recruit, solicit and encourage women, minorities, and lower-income Pierce County residents, and otherwise qualified disabled individuals to apply for all job openings.
5. We understand that no present full or part-time employees or trainees need be terminated or laid off in order to meet these goals; however, if additional employees or trainees are required we agree to make a "good faith effort" to encourage application of minorities, women, lower-income Pierce County residents, and otherwise qualified disabled individuals to fill such openings. We will take the following affirmative actions whenever there is a need to hire new full or part-time employees.
 - a. Recruit through local media, noting need for minorities, women, lower-income Pierce County residents, and/or otherwise qualified disabled individuals.

- b. Recruit through Washington State Employment Service, or, if a union employer, through appropriate unions, noting need for minorities, women, lower-income Pierce County residents, and otherwise qualified disabled individuals.
- c. Recruit through local community service organizations for minorities, women, lower-income Pierce County residents, and otherwise qualified disabled individuals.
- d. Maintain a reference list of minorities, women, Pierce County lower-income residents, and otherwise qualified disabled individuals that visit the job site or your facilities and request employment.
- e. Treat all applicants for employment without unlawful prejudice or discrimination.
- f. Other (specify) _____.

CONTRACTOR'S & SUBCONTRACTOR'S COMBINED CERTIFICATION

(Required Information, MBE/WBE, EEO, Labor Standards, Debarment, Litigation/Regulatory Action)

State of Washington County of Pierce

Date: _____

Contractor/Subcontractor: _____

Address: _____

Project Name: _____

Number: _____

Legal name of firm: _____

This firm is: (check one)

- single proprietorship
- partnership
- corporation
- other

The name, title, and address of all owners, partners, or officers of this firm are:

Name	Title	Address

The name, address, and type of other construction business(es) in which this firm has a substantial interest:

Name	Address	Type of Business

The following (required) information is correct:

IRS Identification No.: _____

Contractor's License No.: _____

CCR/Cage Code: _____

DUNS No.: _____

Union Affiliation: Yes _____ No _____ Union(s): _____

Will Use Apprentices: Yes _____ No _____

The following person(s) may sign certified payroll reports for this firm:

(sample signature)

(printed or type name)

(sample signature)

(printed or type name)

The undersigned, having executed a contract with Contracting Agency (or with a Subrecipient, contractor or subcontractor of Contracting Agency for the construction of the public works project described above, acknowledges that:

- 1 The MBE/WBE and EEO and State prevailing wage provisions are included in the specifications of the contract and that the undersigned is obligated to comply with those requirements; and, that
- 2 The correction of any infraction of those requirements by the contractor, subcontractor, or any lower tier subcontractor is the responsibility of the prime contractor.

The undersigned further acknowledges and certifies that:

1. Neither he/she, nor any firm, partnership or association in which he/she has a substantial financial interest, is debarred from contracting with the federal government, the State of Washington or Contracting Agency or is in any other way prevented from carrying out the provisions of this public works contract;
2. No part of this project has been or will be subcontracted to any subcontractor (or any tier) who is debarred from contracting with the federal government, the State of Washington or is in any other way prevented from carrying out the provisions of this public works contract; and
3. The undersigned certifies that (Check one):

It is, _____ or It is not _____

involved in any litigation or regulatory action at time of the bid. If they are, the bidder is required to provide applicable information including the parties involved, dates, places, courts, and a brief synopsis of the details attached to this form. Failure to provide this information, or failure to provide accurate information, may render the bid non-responsive or give Contracting Agency the right to cancel the contract or apply other legal or administrative remedies.

4. He/she promises to forward to Contracting Agency within 15 calendar days following execution, a copy of all subcontract agreements entered into on this project.

Contractor: _____

Date: _____

By: _____

Title: _____

(typed or printed name)

CERTIFICATION REGARDING EQUAL EMPLOYMENT OPPORTUNITY

INSTRUCTIONS

This certification is required pursuant to Executive Order 11246 (30 F. R. 12319-25). The implementing rules and regulations provide that any bidder or prospective contractor, or any of their proposed subcontractors, shall state as an initial part of the bid or negotiations of the contract whether it has participated in any previous contract or subcontract subject to the equal opportunity clause: and, if so, whether it has filed all compliance reports due under applicable instructions.

Where the certification indicates that the bidder has not filed a compliance report due under applicable instructions, such bidder shall be required to submit a compliance report within seven calendar days after bid opening. No contract shall be awarded unless such report is submitted.

CERTIFICATION BY: Bidder Contractor Subcontractor

Name and Address of Bidder/Contractor/Subcontractor (*include Zip Code*):

1. Bidder/Contractor/Subcontractor has participated in a previous contract or subcontract subject to the Equal Opportunity Clause: (check one)
 Yes No
2. Compliance reports were required to be filed in connection with such contract or subcontract: (check one)
 Yes No
3. Bidder/Contractor/Subcontractor has filed all compliance reports due under applicable instructions, including SF100: (check one)
 Yes No
4. Have you ever been or are you being considered for sanction due to violation of Executive Order 11246, as amended? (check one)
 Yes No

Name and Title of Signer (please print)

Signature

Date

CONTRACTOR'S/SUBCONTRACTOR'S CERTIFICATION FORM MBE/WBE PARTICIPATION

Chapter 39, RCW (Substitute House Bill 1370) requires each bidder to identify at time of bid, all subcontractors performing more than 10 percent of the project. Pierce County and Contracting Agency require that all subcontractors and suppliers to be utilized on this project be identified at time of bid on the form below. M/WBE Participation:

I, the official representative of (Bidder's name) _____ do hereby acknowledge that the State of Washington has established voluntary participation goals for minority and women business enterprises for this project and certify that we will attempt to achieve the following MBE and WBE participation to meet those goals:

MBE Participation: 10%, WBE Participation: *6.9%

*Federally funded project must meet nationwide WBE goal of 6.9%, which is higher than the State WBE goal of 6%.

List of Subcontractors and Suppliers

Subcontractors, suppliers and manufacturers which we will utilize on this project include the following:

1. Firm Name/Address	2. Work/Supplies Provided	3. Contract Value \$	4. M/WBE Demographic Code	5. Sub/Sup/Mfr

If more space is required, use additional pages.

Contractor: _____ Date: _____

By: _____

Title: _____ Title: _____
(typed or printed name)

Instructions for completing form:

1. **Firm Name/Address** - List full name and address of each firm which will be utilized as a subcontractor, supplier, and/or manufacturer and further identify others that will be utilized to attempt to meet M/WBE goals.
2. **Work/Supplies provided** -List specific work to be accomplished or supplies to be furnished by each firm (subcontractor, supplier, and/or manufacturer).
3. **Contract Value \$** - List the value of the contract for the work or supplies furnished by each to nearest dollar.
4. **M/WBE Group** - Identify if firm is a minority or woman-owned business. Where a minority firm is listed, enter code showing the demographic code of that firm as follows:

W = White

B = Black/African American

A = Asian

AI =American Indian/Alaskan Native

HL=Hispanic or Latino

NH = Native Hawaiian/Other Pacific Islander

2+ = Two or more races

FH = Female Head of Household

Sub/Sup/Mfr - Enter code showing if the listed M/WBE firm is a contractor, subcontractor, supplier, or manufacturer. (Examples: CONT = Contractor, MFR = Manufacturer, SUB = Subcontractor, SUP = Supplier).

BIDDER/SUBCONTRACTOR SECTION 3 REPRESENTATION FORM

BIDDER/ SUBCONTRACTOR: _____
 STREET ADDRESS: _____
 TOWN/ZIP CODE: _____
 CONTACT PERSON: _____
 PHONE & FAX NO: _____

PART I – REPRESENTATION

The BIDDER/SUBCONTRACTOR represents and certifies as a part of its bid that it:

- IS NOT** A SECTION 3 BUSINESS
- IS** A SECTION 3 BUSINESS, which:
 - is 51% or more owned by low-income* Pierce County residents, or;
 - has full time employees, 30% or more of whom are Pierce County residents who are low income* OR qualified as low-income residents within three years of the date of current hire with the BIDDER/SUBCONTRACTOR, or;
 - will award subcontracts in excess of 25% of the dollar amount of all subcontracts to the Section 3 businesses identified below: Contract Amount (\$)

Proposed Section 3 Subcontractor

Contract Amount (\$)

(Continue on separate sheet, if necessary.)

* To qualify as “low income” the income level of the resident must not exceed 80% of area median income as defined by the 2015 HUD HOME Income Limits for Tacoma WA (the right column below).

2017 HUD HOME Income Limits Tacoma, WA Effective 06/15/2017			
Family Size	Extremely Low Income (30%)	Very Low Income (50%)	Low Income (80%0
1 (Person)	\$15,650	\$26,100	\$41,750
2 (Person)	\$17,900	\$29,800	\$47,700
3 (Person)	\$20,150	\$33,550	\$53,650
4 (Person)	\$22,350	\$37,250	\$59,600
5 (Person)	\$24,150	\$40,250	\$64,400
6 (Person)	\$25,950	\$43,250	\$69,150
7 (Person)	\$27,750	\$46,200	\$73,950
8 (Person)	\$29,550	\$49,200	\$78,700

After award of the bid, it will, if selected, complete a Section 3 Plan with the Pierce County Human Services Department. The Section 3 Plan will detail how a minimum of 10% of new hires, as a result of work under this contract, shall be Section 3 residents. List below the estimated number of new hires by the BIDDER/SUBCONTRACTOR and named subcontractor(s):

Contractor

Est. Number of New Hires

BIDDER/PRIME _____

SUBCONTRACTOR _____

SUBCONTRACTOR _____

SUBCONTRACTOR _____

(Continue on separate sheet, if necessary.)

PART II – PRESENT EMPLOYEES

(Includes your entire organization)

We presently employ ____ **full-time employees**, including:

- Minorities
- Women
- Lower-income Pierce County residents
- Otherwise qualified disabled individuals

We also presently employ ____ **part-time employees**, comprised of:

- Minorities
- Women
- Lower-income Pierce County residents
- Otherwise qualified disabled individuals

Further, during the period of this project we expect to **provide training** for ____ present employees including:

- Minorities
- Women
- Lower-income Pierce County residents
- Otherwise qualified disabled individuals

During the period of this project, we agree to treat all employees without unlawful prejudice or discrimination during all phases of their employment including all actions regarding employment, training, upgrading, promotion, demotion, job transfer, benefits, layoff or termination, pay, etc. Every effort should be made to train and promote women, minorities, Pierce County lower-income residents, and otherwise qualified disabled individuals to all levels of employment including management to counter the effects of any past discrimination to those classes of individuals.

PART III – CONTRACTORS, SUBCONTRACTORS, AND SUPPLIERS

(For all physical improvement construction type projects only.)

During this period of performance, we expect to issue ____ contracts (subcontractors, supply contracts) of approximately \$_____ value. Of that figure, we expect to issue contracts of the following approximate values:

\$ _____ Certified Women Business Enterprises (WBE's)

\$ _____ Certified Minority Business Enterprises (MBE's)

\$ _____ Lower-Income Pierce County residents

\$ _____ Pierce County⁷ Businesses

We agree to make a “good faith effort” to utilize WBE's, MBE's, and Pierce County Businesses as contractors, subcontractors, and suppliers during the period of the project and to meet the State of Washington and U. S. Department of Labor M/WBE goals as follows:

6.9% Certified Women Business Enterprises (WBE's)

10% Certified Minority Business Enterprises (MBE's)

Pierce County Businesses – to greatest extent practicable

Each agency, organization, firm or individual hereby affirms that it will treat all employees; all contractors, subcontractors and suppliers; and all applicants for those positions without unlawful prejudice or discrimination, in all matters and that it will take affirmative action to counter the effects of past discrimination as set forth in this plan.

Contractor/Subcontractor: _____

(Signature) (Date)

(Typed or printed name)

Bankruptcy, Lawsuits or Regulatory Actions

As part of its bid package, each bidder will certify that it is, or is not involved in any litigation or regulatory action at time of the bid. If they are, the bidder is required to provide applicable information including the parties involved, dates, places, courts, and a brief synopsis of the details. Failure to provide this information, or failure to provide accurate information, may render the bid non-responsive or give Contracting Agency the right to cancel the contract or apply other legal or administrative remedies.

- 1. Has the organization (either under this name or other names this organization has done business as) been in any form of bankruptcy at any time during the last seven (7) years? If “yes,” please attach a copy of the bankruptcy petition, showing the case name, number, court, initial filing date, applicable Bankruptcy Code (chapters), and a copy of the Bankruptcy Court’s discharge order, or of any other document that ended the case if no discharge order was issued. If the organization has operated under other names, please list those with the years of operation.**
- 2. In the past seven (7) years, have any bankruptcy proceedings been initiated by or against the organization (whether or not closed) or is any bankruptcy proceeding pending by or against the organization regardless of the date of filing?**
- 3. Describe in detail what the organization’s long term plan is to address any potential difficulties the above is having on your ability to complete this project.**
- 4. Are there any other regulatory actions, legal actions, and/or potential lawsuits pending against the organization? If so, please describe.**
- 5. Litigation: Provide the caption, cause number, Court, Counsel, and general summary of any litigation pending, or judgment rendered, within the past three (3) years against the bidder, as applicable.**

Lobbying Certification

The Contractor/Subcontractor certifies that, to the best of its knowledge and belief:

No federal appropriate funds have been paid, or will be paid by, or behalf of the contractor/subcontractor, or any of its elected or appointed officials or employees, to any person for influencing, or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employees of Congress, or an employees of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan or cooperative agreement.

If funds other than federal appropriate funds have been paid, or will be paid to any person for influencing, or attempting to influence, an officer or employee of any agency, a Member of Congress an officer or employee of Congress, or an employee of a Member of Congress in connection with this federally funded agreement, the contractor/subcontractor shall complete and submit to CONTRACTING AGENCY, a federal Standard Form-LL "Disclosure Form To Report Lobbying" in accordance with its directions

The contractor/subcontractor shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans and cooperative agreements) and that all contractor/subcontractor's 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.

Contractor: _____ Date: _____

By: _____

(typed or printed name)

REFERENCES

Name of Firm:

In accordance with the Submittal Requirements of this bid, contractors must provide a list of three references. For technical questions about this program, please contact Brian Sarensen, 253-798-7380, bsarens@co.pierce.wa.us. References must be from individuals or utilities for which you have completed work in the last six (6) months. Please provide the following information for your references:

Customer Name	
Address	
Phone Number	
Date of Work	
Type of Work	

Customer Name	
Address	
Phone Number	
Date of Work	
Type of Work	

Customer Name	
Address	
Phone Number	
Date of Work	
Type of Work	

COUNTY OF PIERCE
PUBLIC WORKS CONTRACT

Contract No. SC-#####

Project: Title or Contract Services Project

Agency: Main Department Requesting Services

THIS CONTRACT, made and entered into by and between

PIERCE COUNTY

950 Fawcett Avenue Ste 100
Tacoma WA 98402

hereinafter referred to as the Owner, and

ALL CAPS BUSINESS NAME

Address Line
City, WA 98###

hereinafter referred to as the Contractor shall be the agreed basis of performing the work identified herein.

FIRST: The Contractor agrees to furnish all material, labor, tools, equipment, apparatus, facilities, etc. necessary to perform and complete in a workmanship like manner the work called for in the contract documents entitled:

Bid No. #### – Title Project; Contract No. SC-#####

Prepared by Pierce County Purchasing according to the terms of such contract documents which documents are incorporated herein by reference. The contract documents shall include, but shall not be limited to, the accepted bid, General Provisions, Issued Work Orders, Specifications, Drawings, Addenda, Bond, Advertisement for Bids, and this Contract.

SECOND: Time for Completion: The work to be performed under this contract shall commence as soon as the Contractor has officially received the Notice to Proceed by the Department. This Contract shall not exceed **two years** in time from the issuance of the Notice to Proceed, unless more time is required to complete any open work order issued prior to the end of the two year time for completion.

THIRD: In consideration of the Contract Documents and the Contractor's submitted bid, dated **Month, XX, XXXX**, herein contained on the part of the Contractor, the Owner hereby agrees to pay the Contractor for said work completed according to the Contract Documents, up to the sum of ***spell out contract dollar amount*** (\$#.###.###.##), including Washington State Sales Tax, if applicable to the services.

PROGRESS PAYMENTS shall be made, not more often than monthly, on amounts earned by the Contractor and certified by the Contract Manager/Project Coordinator for the work period specified in the application for payment, as set forth in the contract documents. Release of retained percentage will be made as required by law after date of final acceptance, and receipt of all necessary releases and settlement of any liens.

This contract shall be construed and governed by the laws and statutes of the State of Washington.

