



Grant Agreement with:

Snohomish County

Through

Washington State Department of Commerce
Energy Programs in Communities
Energy Division

And

United States Department of Energy-Weatherization Assistance
Program-Bipartisan Infrastructure Law

For:

Provide program administration and delivery of weatherization services to provide cost-effective energy efficiency and health and safety benefits to eligible low-income households.

Start date: September 1, 2022

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Attachment A - Scope of Work

Attachment B – Budget

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Weatherization Manual, incorporated by reference

Weatherization Field Guide, incorporated by reference

Standard Work Specifications, incorporated by reference

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FACE SHEET

Grant Number: F22-92401F-422

Washington State Department of Commerce
Energy Division – Energy Programs In Communities
Department of Energy - Weatherization Assistance Program (WAP) Bipartisan Infrastructure Law (BIL)

Subrecipient
 Contractor

1. Grantee Snohomish County DBA DCNR ENERGY & WEATHERIZATION, 3000 ROCKEFELLER EVERETT, WA 98201		2. Grantee Doing Business As (optional)	
3. Grantee Representative Dave Somers County Executive Phone: (425) 388-3035 Email: dave.somers@co.snohomish.wa.us		4. Commerce Representative Scotty Reed, Program Manager Policy and Contracts Phone: (360) 764-0182 Email: Scotty.Reed@commerce.wa.gov PO Box 42525 98502-2525 1011 Plum Street SE Olympia, WA 98501	
5. Grant Amount \$311,179	6. Funding Source Federal: <input checked="" type="checkbox"/> State: <input type="checkbox"/> Other: <input type="checkbox"/>	7. Start Date 09/01/2022	8. End Date 06/30/2027
9. Federal Funds (as applicable): \$311,179	Federal Agency: Department of Energy	ALN Number: 81.042	Indirect Rate (if applicable):
10. Tax ID # 91-6001368	11. SWV # SWV0002794-AC	12. UBI # 313014461	13. UEI # LG8NG8JNJD83
14. Grant Purpose Provide program administration and delivery of weatherization services to provide cost-effective energy efficiency, and health and safety benefits to eligible low-income households. Grantee signature confirms commitment to expend all funds no later than Grant End Date. If uncertain of the ability to expend all funds, the Grantee Representative must contact the COMMERCE Representative by email no later than three months prior to Grant End Date. COMMERCE, defined as the Department of COMMERCE, and the Grantee, as defined above, acknowledge and accept the terms of this Grant and attachments and have executed this Grant on the date below to start as of the date and year referenced above. The rights and obligations of both parties to this Grant are governed by this Grant and the following documents attached or incorporated by reference: Terms and Conditions, Attachment A - Scope of Work, Attachment B - Budget, Attachment C – Certification, Weatherization Manual, Weatherization Field Guide, and Standard Work Specifications.			
FOR GRANTEE  _____ Authorized Signature Gregg Farris _____ Name Surface Water Utility Director _____ Title 2/28/23 _____ Date		FOR COMMERCE <div style="text-align: right;"> DocuSigned by:  _____ <small>70B18292855448A...</small> Michael Furze, Assistant Director Energy Division 3/28/2023 8:24 AM PDT _____ Date APPROVED AS TO FORM ONLY BY ASSISTANT ATTORNEY GENERAL APPROVAL ON FILE </div>	

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**SPECIAL TERMS AND CONDITIONS
DEPARTMENT OF COMMERCE
ENERGY DIVISION - ENERGY PROGRAMS IN COMMUNITIES
DEPARTMENT OF ENERGY - WEATHERIZATION ASSISTANCE PROGRAM
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1. ACKNOWLEDGEMENT OF FEDERAL FUNDS

Award No.: DE-EE0010023 / ALN No.: 81.042
Effective Date: July 1, 2022 / Period of Performance: September 1, 2022 through June 30, 2027
Authority: Public Law 109.58, Energy Policy Act (2005)
Total amount: Funds Obligated - This action: \$7,067,317.00
Program Manager: Jonny Muckey, 202-287-1809, jon.muckey@ee.doe.gov.

The Grantee agrees that any publications (written, visual, or sound) but excluding press releases, newsletters, and issue analyses, issued by the Grantee describing programs of projects funded in whole or in part with federal funds under this Grant, shall contain the following statements:

“This project is supported by the U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy (EERE). Funds are administered by the Washington State Department of COMMERCE, Energy Division, Housing Preservation and Preservation, Low Income Weatherization Assistance Program. The views and opinions of authors expressed herein do not necessarily state or reflect those of the United States Government or any agency thereof.”

2. GRANT MANAGEMENT

The Representative for each of the parties shall be responsible for and shall be the contact person for all communications and billings regarding the performance of this Grant.

The Representative for COMMERCE and their contact information are identified on the Face Sheet of this Grant.

The Representative for the Grantee and their contact information are identified on the Face Sheet of this Grant.

3. ADMINISTRATIVE COSTS ALLOCATION

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

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

4. BILLING PROCEDURES AND PAYMENT

COMMERCE will pay Grantee upon acceptance of services provided and receipt of properly completed invoices, which shall be submitted to the Representative for COMMERCE. Invoices shall be submitted at least quarterly, but not more often than monthly via the Contract Management System (CMS) Online A19 Portal to COMMERCE. Grantees submitting quarterly invoices must submit to COMMERCE by and no later than: January 15; April 15; July 15, October 15 of each year the contract is in effect.

The invoices shall describe and document, to COMMERCE's satisfaction, a description of the work performed, the progress of the project, and fees. The invoice shall include Grant Number F22-92401F-422. Grantee shall be reimbursed based on the amount of actual expenditures. If there was no production or fiscal activity at the time of invoicing, the Grantee must still submit an invoice showing a zero balance.

The Grantee shall submit a Final Grant Closeout Report for each funding source that accurately reflects the work completed and funds expended during the program year. The Grantee shall submit electronic reports to COMMERCE no later than 45 days after the program year closes. Grantee must submit the complete list of weatherization Data System project numbers the Grant funded.

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

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

Budget Revisions

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

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

Disallowed Costs

Grantee is responsible for any audit exceptions or costs incurred by its own organization or that of its Contractors/Subcontractors.

Initial Payment

Upon Documentation that Grantee has committed resources to the work under this grant, the Grantee may request an initial working capital payment one month prior to the planned expenditure. The payment cannot exceed the Grantee's planned expenditures for the first sixty days' Administration/Program or ten percent (10%) of the total Administration/Program.

In any given year, all outstanding local agency initial amounts must be applied to allowable program costs on the June request for reimbursement and submitted to COMMERCE no later than July 15th. Outstanding Initial payment amounts not cleared by July 15th will be billed to the local agency for payment.

Weatherization Program Manager. Refer to the Weatherization Manual for additional guidance

Invoices and End of Fiscal Year

Invoices are due on the 15th of the month following the provision of services.

Final invoices for a state fiscal year may be due sooner than the 15th and COMMERCE will provide notification of the end of fiscal year due date.

The Grantee must invoice for all expenses from the beginning of the Grant through June 30, regardless of the Agreement start and end date.

Proportional Return of Unexpended Funds

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

Program Income

Program income generated under this Grant may be used for costs not included in the total approved budget, if COMMERCE determines such costs are directly related to the objectives of the statute under

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which the grant was awarded. Such program income shall be used in the manner and in accordance with the terms and conditions established by the grant through which the program income was derived unless otherwise permitted by COMMERCE.

Spending Limits

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

Training and Technical Assistance

In the event of returning funds, the Grantee is not required to return T&TA funds in proportion to other budget categories.

5. COMPENSATION

COMMERCE shall pay an amount not to exceed \$311,179.00 for the performance of all things necessary for or incidental to the performance of work as set forth in Attachment A - Scope of Work. Grantee's compensation for services as set forth in the Scope of Work. Grantee's compensation for services rendered shall be based on Attachment B - Budget.

6. COMBINING REGULAR DOE FUNDING WITH BIL

BIL funds **shall never** be combined with regular DOE (*formula-based*) funding on the same project.

7. CONTRACTOR/SUBCONTRACTOR DATA COLLECTION

Grantee will submit reports, in a form and format to be provided by COMMERCE and at intervals as agreed by the parties, regarding work under this Grant performed by contractors/subcontractors and the portion of Grant funds expended for work performed by contractors/subcontractors, including but not necessarily limited to minority-owned, woman-owned, and veteran-owned business contractors/subcontractors. "Contractors/Subcontractors" shall mean contractors of any tier.

8. FRAUD AND OTHER LOSS REPORTING

Grantee shall report in writing all known or suspected fraud or other loss of any funds or other property furnished under this Grant immediately or as soon as practicable to the COMMERCE Representative identified on the Face Sheet.

9. HISTORICAL OR CULTURAL ARTIFACTS

COMMERCE Prior to approval and disbursement of any funds awarded under this Grant, Grantee shall complete the requirements of the DOE programmatic agreement, where applicable, or Grantee shall complete a review under Section 106 of the National Historic Preservation Act, if applicable. Grantee agrees that the Grantee is legally and financially responsible for compliance with all laws, regulations, and agreements related to the preservation of historical or cultural resources and agrees to hold harmless COMMERCE and the state of Washington in relation to any claim related to such historical or cultural resources discovered, disturbed, or damaged as a result of the project funded by this Grant.

In addition to the requirements set forth in this Contract, Contractor shall, in accordance with Governor's Executive Order 21-02 coordinate with COMMERCE and the Washington State Department of Archaeology and Historic Preservation ("DAHP"), including any recommended consultation with any affected tribe(s), during Project design and prior to construction to determine the existence of any tribal cultural resources affected by Project. Contractor agrees to avoid, minimize, or mitigate impacts to the cultural resource as a continuing prerequisite to receipt of funds under this Contract.

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The Contractor agrees that, unless the Contractor is proceeding under an approved historical and cultural monitoring plan or other memorandum of agreement, if historical or cultural artifacts are discovered during construction, the Contractor shall immediately stop construction and notify the local historical preservation officer and the state's historical preservation officer at DAHP, and the COMMERCE Representative identified on the Face Sheet. If human remains are uncovered, the Contractor shall report the presence and location of the remains to the coroner and local enforcement immediately, then contact DAHP and the concerned tribe's cultural staff or committee.

The Contractor shall require this provision to be contained in all subcontracts for work or services related to the Scope of Work attached hereto.

In addition to the requirements set forth in this Contract, Contractor agrees to comply with RCW 27.44 regarding Indian Graves and Records; RCW 27.53 regarding Archaeological Sites and Resources; RCW 68.60 regarding Abandoned and Historic Cemeteries and Historic Graves; and WAC 25-48 regarding Archaeological Excavation and Removal Permit.

Completion of the requirements of Section 106 of the National Historic Preservation Act shall substitute for completion of Governor's Executive Order 21-02.

In the event that the Contractor finds it necessary to amend the Scope of Work the Contractor may be required to re-comply with Governor's Executive Order 21-02 or Section 106 of the National Historic Preservation Act.

Refer to Weatherization Manual for further guidance: [Exhibit 2.1.6A Historic Preservation Programmatic Agreement](#).

10. WEATHERIZATION READINESS (WxR):

BIL funding **shall not** be used to support Weatherization Readiness projects.

11. DAVIS BACON ACT (DBA):

With respect to work performed under the Weatherization Assistance Program on a project assisted in whole or in part by WAP funding, the BIL (Section 41101 and 40552) requires the payment of prevailing wages for work performed on multifamily buildings with no fewer than 5 units.

Therefore, all laborers and mechanics employed by contractors and subcontractors on multifamily building projects with no fewer than 5 units funded directly by or assisted in whole or in part by and through the Federal Government pursuant to the BIL shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor.

For reference purposes only, it is strongly recommended that WAP subgrantees review archived WPN 09-9, Guidance on Implementation of the Davis-Bacon Act Prevailing Wage Requirements in the American Recovery and Reinvestment Act of 2009, issued July 21, 2009, which provided guidance to WAP Grantees and Subgrantees on implementing Davis-Bacon Act (DBA) requirements in the WAP. In addition, subgrantees should also review archived WPN 10-4, Bacon Commercial Labor Rates in Large Multifamily Buildings Impact on Saving-To Investment Ratios, issued November 10, 2009, which addressed the determination of the cost effectiveness of weatherization materials installed in multifamily buildings.

Under 10 CFR 440.21(d), each individual weatherization material and package of weatherization materials installed in an eligible dwelling unit must be cost-effective. These materials must result in energy cost savings over the lifetime of the measure(s), discounted to present value, that equal or exceed the cost of materials, installation, and on-site supervisory personnel as defined by DOE.

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Per the terms of the BIL, higher wage rates on multifamily buildings with not fewer than 5 units may not meet the cost-effectiveness requirement established in regulation, whereas the same measures would be cost-effective if installed on low-rise buildings. Therefore, as per WPN 10-4, for purposes of calculating cost-effectiveness, a local agency may use either the weatherization labor rates or the commercial prevailing wage for weatherization measures installed in high-rise buildings. However, in accordance with BIL requirements, prevailing wages for labor must be paid. Subgrantees must adhere to all DBA reporting requirements as issued by DOE over the course of the award.

12. BUILD AMERICA BUY AMERICA ACT:

The BIL included a new “Buy America, Build America” section which created a number of new responsibilities and requirements, including a new—permanent—Buy American domestic preference requirement for all iron, steel, manufactured products, and construction materials used in certain financial assistance projects. This new requirement applies to “infrastructure projects,” “Projects” is defined as the “construction, alteration, maintenance, or repair of infrastructure in the United States.” “Infrastructure” includes the structures, facilities, and equipment for, in the United States:

- Roads, highways, and bridges;
- Public transportation;
- Dams, ports, harbors, and other maritime facilities;
- Intercity passenger and freight railroads;
- Airports;
- Water systems, including drinking water and wastewater systems;
- Electrical transmission facilities and systems;
- Utilities;
- Broadband infrastructure; and
- **Buildings and real property.**

The BIL made changes to domestic content preference laws, which require that certain goods purchased with federal funds be manufactured primarily in the United States. “Buy America” requirements previously applied to iron, steel, and certain manufactured goods. Title IX of HR 3684 “Build America, Buy America” broadens coverage to include nonferrous metals, such as copper used in electric wiring; plastic- and polymer-based products; glass, including optical fiber; and certain other construction materials, such as lumber and drywall.

13. INSURANCE

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

The insurance required shall be issued by an insurance company authorized to do business within the state of Washington. Except for Professional Liability or Errors and Omissions Insurance, the insurance shall name the state of Washington, its agents, officers, and employees as additional insureds under the insurance policy. All policies shall be primary to any other valid and collectable insurance. The

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Grantee shall instruct the insurers to give COMMERCE thirty (30) calendar days advance notice of any insurance cancellation, non-renewal or modification.

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

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

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

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

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

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

- A.** The amount of fidelity coverage secured pursuant to this Grant shall be \$100,000 or the highest of planned reimbursement for the Grant period, whichever is lowest. Fidelity insurance secured pursuant to this paragraph shall name COMMERCE as beneficiary.
- B.** Contractors/Subcontractors that receive \$10,000 or more per year in funding through this Grant shall secure fidelity insurance as noted above. Fidelity insurance secured by Contractors/Subcontractors pursuant to this paragraph shall name the Grantee as beneficiary.

The Grantee shall provide, at COMMERCE's request, copies of insurance instruments or certifications from the insurance issuing agency. The copies or certifications shall show the insurance coverage, the designated beneficiary, who is covered, the amounts, the period of coverage, and that COMMERCE will be provided thirty (30) days advance written notice of cancellation.

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14. REDUCTION IN FUNDING

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

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

15. REPORTING AND INVOICING REQUIREMENTS

The Grantee shall submit required documentation by the dates due using required procedures issued by COMMERCE. The required documentation shall include, but is not limited to:

<u>Documents</u>	<u>Date Due</u>
1. Minimum Quarterly (no more than monthly) Request for Reimbursement submitted in Contract Management System (CMS)	15 th of the month of the invoice period following expenditures (see #4 of ST&C for quarterly dates)
2. Current weatherization information entered in the weatherization database	15 th of the month following completion
3. Grant Closeout Report	45 days after close of Grant period

16. WEATHERIZATION WORK**COMPLETION OF WEATHERIZATION WORK**

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

CONTRACTOR /SUBCONTRACTOR MONITORING REQUIREMENTS

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

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

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Contractors/Subcontractors shall mean contractors of any tier.

DOCUMENTS ON FILE

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

- Articles of Incorporation/Tribal Charter
- By-laws
- IRS Nonprofit Status Certification
- Latest Agency Audit
- Insurance and Bonding Policies Required by the Grant
- Updated System for Award Management (SAM) Information
- Documents required by the Weatherization Manual

PERFORMANCE EXPECTATIONS

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

PREVAILING WAGE (when DBA does not apply)

Regardless of funding source the work performed by this Grant is subject to Washington State Prevailing Wage Law, Chapter 39.12 RCW. Application of the Prevailing Wage Law depends on the nature of the work that is performed regardless of the worker's job title. The Grantee is advised to consult with the Washington State Department of Labor and Industries Prevailing Wage Office to determine the prevailing wages that must be paid, if applicable.

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

Each and every individual Grantee and Contractor on a public works project must individually file a Statement of Intent to Pay Prevailing Wages (Intent) form, and an Affidavit of Wages Paid (Affidavit) form for each contract to perform work. The Grantee shall maintain records sufficient to evidence compliance with Chapter 39.12 RCW, and shall make such records available for COMMERCE review upon request.

The Grantee shall maintain records sufficient to show compliance with RCW 39.12 and shall make such records available to COMMERCE upon request.

RECORDS MAINTENANCE – in addition to General Terms and Conditions Records Maintenance

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

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

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

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

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

TREATMENT OF ASSETS – in addition to General Terms and Conditions, #4. Treatment of Assets

Refer to the Weatherization Manual for guidance.

RELEASE OF INFORMATION

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

- A. The percentage of the total costs of the program or project that will be financed with federal money.
- B. The dollar amount of federal funds for the project or program.
- C. The percentage and dollar amount of the total costs of the project or program that will be financed by non-government sources.

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

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

WRITTEN POLICIES, PROCEDURES, AND GUIDELINES

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

- A. Personnel
- B. Job Descriptions
- C. Organizational Chart
- D. Travel
- E. Fiscal Management
- F. Affirmative Action Policy and Plan, including:
 - Location of facilities and accessibility to target populations.
 - Provision for bilingual employees or volunteers, as appropriate
- G. Procurement of Vehicles and Equipment

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17. ORDER OF PRECEDENCE

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

- Applicable federal and state of Washington statutes and regulations
- Special Terms and Conditions
- General Terms and Conditions
- Attachment A – Scope of Work
- Attachment B – Budget
- Attachment C - Certification
- Policy Memoranda, incorporated by reference
- Weatherization Manual, incorporated by reference
- Weatherization Field Guide, incorporated by reference
- Standard Work Specifications, incorporated by reference
- Consumer Conservation Education-Educator's Manual, incorporated by reference

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1. DEFINITIONS

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

- A. "Authorized Representative" shall mean the Director and/or the designee authorized in writing to act on the Director's behalf.
- B. "COMMERCE" shall mean the Department of COMMERCE.
- C. "Grant" or "Agreement" means the entire written agreement between COMMERCE and the Grantee, including any Exhibits, documents, or materials incorporated by reference. E-mail or Facsimile transmission of a signed copy of this Grant shall be the same as delivery of an original.
- D. "Grantee" shall mean the entity identified on the Face Sheet performing service(s) under this Grant, and shall include all employees and agents of the Grantee.
- E. "Modified Total Direct Costs (MTDC)" shall mean all direct salaries and wages, applicable fringe benefits, materials and supplies, services, travel, and up to the first \$25,000 of each subcontract (regardless of the period of performance of the subcontracts under the award). MTDC excludes equipment, capital expenditures, charges for patient care, rental costs, tuition remission, scholarships and fellowships, participant support costs and the portion of each subaward in excess of \$25,000.
- F. "Personal Information" shall mean information identifiable to any person, including, but not limited to, information that relates to a person's name, health, finances, education, business, use or receipt of governmental services or other activities, addresses, telephone numbers, social security numbers, driver license numbers, other identifying numbers, and any financial identifiers.
- G. "State" shall mean the state of Washington.
- H. "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 contract with the Grantee. The terms "Subgrantee/Subcontractor" refers to any tier.
- I. "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.
- J. "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.

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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

If the Grantee is a subrecipient and expends \$750,000 or more in federal awards from any and/or all sources in any fiscal year, the Grantee shall procure and pay for a single audit or a program-specific audit for that fiscal year. Upon completion of each audit, the Grantee shall:

1. Submit to COMMERCE the reporting package specified in OMB Super Circular 2 CFR 200.501, reports required by the program-specific audit guide (if applicable), and a copy of any management letters issued by the auditor.
2. Submit to COMMERCE follow-up and developed corrective action plans for all audit findings.

If the Grantee is a subrecipient and expends less than \$750,000 in federal awards from any and/or all sources in any fiscal year, the Grantee shall notify COMMERCE they did not meet the single audit requirement.

The Grantee shall send all single audit documentation to [Federal Audit Clearinghouse](#).

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

A. Grantee, defined as the primary participant and its principals, certifies by signing these General Terms and Conditions that to the best of its knowledge and belief they:

1. Are not presently debarred, suspended, proposed for debarment, and declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency.

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2. Have not within a three-year period preceding this Grant, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction, violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice;
 3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of federal Executive Order 12549; and
 4. Have not within a three-year period preceding the signing of this Grant had one or more public transactions (Federal, State, or local) terminated for cause of default.
- B.** Where the Grantee is unable to certify to any of the statements in this Grant, the Grantee shall attach an explanation to this Grantee.
- C.** The Grantee agrees by signing this Grant that it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by COMMERCE.
- D.** The Grantee further agrees by signing this Grant that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-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.
- E.** The terms **covered transaction, debarred, suspended, ineligible, lower tier covered transaction, person, primary covered transaction, principal, and voluntarily excluded**, as used in this section, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact COMMERCE for assistance in obtaining a copy of these regulations.

11. CONFIDENTIALITY/SAFEGUARDING OF INFORMATION

- A.** "Confidential Information" as used in this section includes:
- i. All material provided to the Grantee by COMMERCE that is designated as "confidential" by COMMERCE;
 - ii. All material produced by the Grantee that is designated as "confidential" by COMMERCE; and
 - iii. All personal information in the possession of the Grantee that may not be disclosed under state or federal law. "Personal information" includes but is not limited to information related to a person's name, health, finances, education, business, use of government services, addresses, telephone numbers, social security number, driver's license number and other identifying numbers, and "Protected Health Information" under the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA).

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- 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 or shall use Confidential Information solely for the purposes of this Agreement 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, Chapters 42.52 RCW and 42.23 RCW; or any similar statute involving the Grantee in the procurement of, or performance under this Grant.

Specific restrictions apply to contracting with current or former state employees pursuant to chapter 42.52 of the Revised Code of Washington. The Grantee and their contractor(s)/subcontractor(s) must identify any person employed in any capacity by the state of Washington that worked on the this program including but not limited to formulating or drafting the legislation, participating in grant procurement planning and execution, awarding grants, and monitoring grants, during the 24 month period preceding the start date of this Grant. Identify the individual by name, the agency previously or currently employed by, job title or position held, and separation date. If it is determined by COMMERCE that a conflict of interest exists, the Grantee may be disqualified from further consideration for the award of a Grant.

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

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.

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“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.

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16. GOVERNING LAW AND VENUE

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

17. INDEMNIFICATION

To the fullest extent permitted by law, the Grantee shall indemnify, defend, and hold harmless the state of Washington, COMMERCE, agencies of the state and all officials, agents and employees of the state, for, from and against all claims 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 Contractor or its employees.

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

The Grantee waives its employer 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. INDIRECT COSTS

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

20. INDUSTRIAL INSURANCE COVERAGE

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

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21. LAWS

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

22. LICENSING, ACCREDITATION AND REGISTRATION

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

23. LIMITATION OF AUTHORITY

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

24. NONCOMPLIANCE WITH NONDISCRIMINATION LAWS

During the performance of this Grant, the Grantee shall comply with all applicable federal, state, and local nondiscrimination laws, regulations and policies. In the event of the Grantee's non-compliance or refusal to comply with any applicable 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.

25. PAY EQUITY

The Grantee agrees to ensure that "similarly employed" individuals in its workforce are compensated as equals, consistent with the following:

- A.** Employees are "similarly employed" if the individuals work for the same employer, the performance of the job requires comparable skill, effort, and responsibility, and the jobs are performed under similar working conditions. Job titles alone are not determinative of whether employees are similarly employed;
- B.** Grantee may allow differentials in compensation for its workers if the differentials are based in good faith and on any of the following:
 - i. A seniority system; a merit system; a system that measures earnings by quantity or quality of production; a bona fide job-related factor or factors; or a bona fide regional difference in compensation levels.
 - ii. A bona fide job-related factor or factors may include, but not be limited to, education, training, or experience that is: Consistent with business necessity; not based on or derived from a gender-based differential; and accounts for the entire differential.
 - iii. A bona fide regional difference in compensation level must be: Consistent with business necessity; not based on or derived from a gender-based differential; and account for the entire differential.

This Grant may be terminated by COMMERCE, if COMMERCE or the Department or Enterprise services determines that the Grantee is not in compliance with this provision.

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26. 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 for working for or against ballot measures or for or against the candidacy of any person for public office.

27. 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:

- A.** 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.
- B.** Procedures that ensure all procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition.
- C.** Minimum procedural requirements, as follows:
 - i. Follow a procedure to assure the avoidance of purchasing unnecessary or duplicative items.
 - ii. Solicitations shall be based upon a clear and accurate description of the technical requirements of the procured items.
 - iii. Positive efforts shall be made to use small and minority-owned businesses.
 - iv. 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.
 - v. Contracts shall be made only with reasonable subgrantees/subcontractors who possess the potential ability to perform successfully under the terms and conditions of the proposed procurement.
 - vi. Some form of price or cost analysis should be performed in connection with every procurement action.
 - vii. Procurement records and files for purchases shall include all of the following:
 - 1) Grantee selection or rejection.
 - 2) The basis for the cost or price.
 - 3) Justification for lack of competitive bids if offers are not obtained.
 - viii. A system for contract administration to ensure Grantee conformance with terms, conditions and specifications of this Grant, and to ensure adequate and timely follow-up of all purchases.
- D.** Grantee and Subgrantee/subcontractor must receive prior approval from COMMERCE for using funds from this Grant to enter into a sole source contract or a contract where only one bid or proposal is received when value of this Grant is expected to exceed \$5,000.

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

28. 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.

29. 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.

30. RECORDS MAINTENANCE

The Grantee shall maintain 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 that 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 resolved.

31. REGISTRATION WITH DEPARTMENT OF REVENUE

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

32. 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 agency 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.

33. 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

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requirement. In lieu of termination, the Grant may be amended to reflect the new funding limitations and conditions.

34. 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.

While on COMMERCE premises, Grantee, its agents, employees, Contractor(s) or Subcontractor(s) shall conform in all respects with physical, fire or other security policies or regulations.

35. 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.

36. 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.

37. 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.

38. 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.

39. 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

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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.

40. TERMINATION FOR CONVENIENCE

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

41. 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 the 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 contracts/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

GENERAL TERMS AND CONDITIONS
DEPARTMENT OF COMMERCE
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DEPARTMENT OF ENERGY - WEATHERIZATION ASSISTANCE PROGRAM

contracts/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 contracts/subcontracts;

- D. Settle all outstanding liabilities and all claims arising out of such termination of orders and contracts/subcontracts, with the approval or ratification of the Authorized Representative to the extent the 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.

42. 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 Contractor(s)/subcontractor(s).

43. 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.

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SCOPE OF WORK

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

1. Program – Overview

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

2. Program Administration

- a. Maintain accounting records of expenses including, but not limited to: building rent, maintenance, utilities; office equipment and furniture rental and purchase; administrative staff costs.
- b. If the Grantee does not expend all DOE funds by the end of the Grant period COMMERCE may retain the unexpended funds. An allocation or spending limit reduction of \$50,000 or ten percent (10%) of the grant total, whichever is greater, may be instituted in the next DOE Grant.
- c. Grantee shall work with COMMERCE to ensure the statewide Average Cost per Unit stays under \$8,009 as agreed upon with the Department of Energy in the 2022 Weatherization Plan. This average includes units computer in a multifamily building of 5 units or greater.
- d. In accordance with 10 CFR Part 440.18(b) and (c), the expenditure of financial assistance provided under WAP for labor, weatherization materials, and related matters for a renewable energy system, shall not exceed an average of \$3,000 per dwelling unit, as adjusted. The percentage increase in the CPI for the previous 12- month period (September 2019 – September 2020) was 5.4%. Therefore, the PY 2022 adjusted average expenditure limit at the time of the grants is \$3,929 for renewable energy system measures with a Savings to Investment Ratio (SIR) greater than 1.
- e. The allowable expenditure for the entirety of the BIL grant for the average expenditure limit will be \$8,009, and the average for renewable energy measures will be \$3,929. Note: The adjusted average for renewable energy measures is not a separate average, but part of the overall adjusted average expenditure limit of \$8,009.
- f. Grantee shall adhere to the target unit production for their agency listed in the 2022 Weatherization State Plan.

3. Program Operations

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

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ATTACHMENT B**Grant Number: F22-92401F-422****BUDGET**

Grantee signature on the Face Sheet confirms commitment to expend all funds no later than the Grant End Date. If uncertain of the ability to expend all funds the Grantee Representative must contact the COMMERCE Representative by email no later than three months prior to Grant End Date.

Allowable spending limits for budget categories are as follows:

ADMINISTRATION		\$57,009
PROGRAM OPERATIONS	\$249,212	
• Weatherization Measures		\$80,000
• Health and Safety Measures		\$36,600
• Weatherization-Related Related Repair Measures		\$33,112
• Program Support		\$99,500
• Vehicles and Equipment - unit cost of \$5,000 and greater		\$0
• Other Program Operations		\$0
TRAINING AND TECHNICAL ASSISTANCE (T&TA)		\$4,958
TOTAL BUDGET		\$311,179

CERTIFICATION

The Grantee, defined as the primary participant in accordance with 45 CFR Part 76, and its principals, certifies by signing this section that to the best of its knowledge and belief that the:





- A.** Agency WAP staff have received training on how to use and will stay current on the Field Guide requirements.
- B.** Agency WAP staff has reviewed the "Precedence Section" of the 2015 Weatherization Manual.
- C.** Agency WAP staff will provide COMMERCE a plan for meeting both the Auditor/Inspector separation and final inspections being completed by an independent QCI with this signed grant.
- D.** Agency WAP staff will develop and implement a plan for informing all weatherization subcontractors of the above SWS requirements and required use of the Washington State Weatherization Field Guide. Agency understands that COMMERCE will monitor this requirement.
- E.** Agency WAP staff will notify COMMERCE within 10 days of losing a QCI or the ability to separate Auditor and Inspector duties. If the agency cannot maintain compliance with Auditor/Inspector separation, Agency WAP will provide COMMERCE with a plan for having units' final inspection completed by an independent QCI.

Executive Director Signature Farris, Gregg Digitally signed by Farris, Gregg
Date: 2023.02.28 13:16:40 -08'00' Date _____

Program Manager Signature Matthew Bell Digitally signed by Matthew Bell
Date: 2023.01.25 15:28:17 -08'00' Date 01/25/2023

Where the Local Agency is unable to certify to any of the statements in this Grant, the Local Agency shall attach an explanation to this Grant. COMMERCE will review this explanation, deem its appropriateness, and take action as necessary.

ENERGY DIVISION CONTRACT REVIEW AND ROUTING FORM***Energy Programs in Communities******FOR COMMERCE USE ONLY***

REVIEWED BY:	I VERIFY THAT:
PROGRAM MANAGER  <hr/>	No unauthorized changes made to contract/amendment. Attachment B - Budget reviewed and approved. Obligation Summary and Allocation Spreadsheet emailed to appropriate staff. Obligation Summary discussed/reviewed with appropriate staff.
SECTION SUPERVISOR  <hr/>	No unauthorized changes made to contract/amendment. Attachment B - Budget reviewed and approved.
BUDGET STAFF  <hr/>	Reviewed Allotment Authority and Coding. Appropriate Obligation/Allocation award paperwork in place. Appropriate award paperwork in place, if applicable. Reviewed contract/amendment entry in CMS.
DATA AND PROGRAMS MANAGER  <hr/>	Final review before signature. Data and Programs Manager Or Managing Director
ASSISTANT DIRECTOR Copy: Spencer Nilsson AA4 <u>Michael Furze</u>	Contract/Amendment signed by Assistant Director. Or Approved for Signature by Deputy Director.

Certificate Of Completion

Envelope Id: 6EFE1144387F4F989928AB3A5110E6EE

Status: Completed

Subject: Complete with DocuSign: F22-92401F-422 Snohomish DOE BIL 2022

Division:

Energy

Program: DOE BIL

ContractNumber: F22-92401F-422

DocumentType: Contract

Source Envelope:

Document Pages: 35

Signatures: 1

Envelope Originator:

Certificate Pages: 2

Initials: 4

Queenie Karlik

AutoNav: Enabled

1011 Plum Street SE

Envelopeld Stamping: Enabled

MS 42525

Time Zone: (UTC-08:00) Pacific Time (US & Canada)

Olympia, WA 98504-2525

queenie.karlik@commerce.wa.gov

IP Address: 198.239.106.209

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Status: Original

Holder: Queenie Karlik

Location: DocuSign

3/13/2023 10:27:46 AM

queenie.karlik@commerce.wa.gov

Security Appliance Status: Connected

Pool: StateLocal

Storage Appliance Status: Connected

Pool: Washington State Department of Commerce

Location: DocuSign

Signer Events**Signature****Timestamp**

Scotty Reed

Scotty.Reed@commerce.wa.gov

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Signed: 3/22/2023 9:37:06 AM

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Electronic Record and Signature Disclosure:

Not Offered via DocuSign

Stephanie Molloy

stephanie.molloy@commerce.wa.gov

Asst Managing Director, EPIC

Security Level: Email, Account Authentication
(None)

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Dan Nguyen

dan.nguyen@commerce.wa.gov

Signing Group: COM Energy Budget Office

Security Level: Email, Account Authentication
(None)

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
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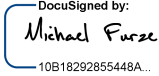
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Signer Events	Signature	Timestamp
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Electronic Record and Signature Disclosure:
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Michael Furze michael.furze@commerce.wa.gov Assistant Director, Energy Division Security Level: Email, Account Authentication (None)	 Signature Adoption: Pre-selected Style Using IP Address: 198.239.10.247	Sent: 3/24/2023 9:51:26 AM Viewed: 3/28/2023 8:24:16 AM Signed: 3/28/2023 8:24:28 AM
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Agent Delivery Events	Status	Timestamp
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Intermediary Delivery Events	Status	Timestamp
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Certified Delivery Events	Status	Timestamp
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Carbon Copy Events	Status	Timestamp
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Spencer Nilsson spencer.nilsson@commerce.wa.gov Admin Lead Security Level: Email, Account Authentication (None)		Sent: 3/28/2023 8:24:29 AM
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Notary Events	Signature	Timestamp
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Envelope Summary Events	Status	Timestamps
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Signing Complete	Security Checked	3/28/2023 8:24:28 AM
Completed	Security Checked	3/28/2023 8:24:29 AM

Payment Events	Status	Timestamps
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