

COMMISSIONER  
Jared S. Chicoine

DEPUTY COMMISSIONER  
Christopher J. Ellms, Jr.



DEPARTMENT OF ENERGY  
21 S. Fruit St., Suite 10  
Concord, N.H. 03301-2429

TDD Access: Relay NH  
1-800-735-2964

Tel. (603) 271-3670

FAX No. 271-1526

Website:  
[www.energy.nh.gov](http://www.energy.nh.gov)

5C

December 21, 2022

His Excellency, Governor Christopher T. Sununu  
and the Honorable Council  
State House  
Concord, New Hampshire 03301

### REQUESTED ACTION

Authorize the Department of Energy (Department) to amend a contract with the Community Development Finance Authority (CDFA), (Vendor #177292), Concord, NH, to operate existing revolving loan funds and loan loss reserves which support a program known as Better Buildings under the terms of an American Recovery and Reinvestment Act - Energy Efficiency and Conservation Block Grant's Retrofit Ramp-up Program (Retrofit Ramp-up) award to the Department from the US Department of Energy, by extending the completion date from December 31, 2022 to December 31, 2023, effective upon Governor and Executive Council approval.

This contract was first approved by the Governor and Executive Council on July 14, 2010 (Item #9), and subsequently amended and approved by the Governor and Executive Council on April 3, 2013 (Item #6), July 24, 2013 (Item #1), October 15, 2014 (Item #25), December 23, 2014 (Item # 26), December 21, 2016 (Item #5G) and December 22, 2021 (Item #5C). This contract enables CDFa to continue to manage the loan funds and ensures continued compliance with federal funding restrictions and requirements. Funding is 100% Federal Funds. No additional funding is requested in this request.

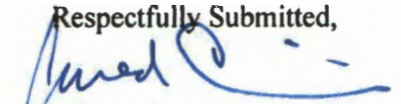
### EXPLANATION

The CDFa has operated the Better Buildings program since inception in 2010, which has funded numerous deep energy retrofits and complementary sustainable energy projects in residential, commercial, and non-profit buildings across the state.

While the program has undergone several changes, its current form is a revolving loan program. To date, none of the loans in CDFa's own Better Buildings Portfolio has ended in default and they continue to receive principal and interest payments on those loans. Additional loans will be made with funds revolving back into the program as described in the accompanying contract exhibits. This agreement will allow CDFa to continue to provide funding for cost-effective energy efficiency projects undertaken by New Hampshire residents, businesses, and nonprofits, according to the terms and conditions accompanying the Federal award and additional Federal guidance governing the administration of the funds, and will allow for continued monitoring and reporting on the impact of such funds to US DOE.

CDFA has successfully managed the Better Buildings program under the original ARRA-EECBG award from the US Department of Energy and is uniquely suited to continue to manage these public funds for the purposes of supporting energy efficiency investments in New Hampshire. In the event that Better Buildings Federal program funds are no longer available. General Funds will not be requested to support this program.

Respectfully Submitted,



Jared Chicoine  
Commissioner

NEW HAMPSHIRE DEPARTMENT OF ENERGY

SUBJECT: AMERICAN RECOVERY AND REINVESTMENT ACT- ENERGY EFFICIENCY  
AND CONSERVATION BLOCK GRANT (EECBG)  
NEW HAMPSHIRE BETTER BUILDINGS PROGRAM

AMENDMENT # 7

This Agreement (hereinafter called the "Amendment") dated this 7<sup>th</sup> day of November, 2022 is by the State of New Hampshire, acting by and through its NH Department of Energy (hereinafter referred to as the State") and the Community Development Finance Authority (CDFA) (hereinafter referred to as the "Contractor").

WHEREAS, Pursuant to a Contract originally approved by the State of New Hampshire Governor and Executive Council on July 14, 2010 (Item #9), and subsequently amended and approved by the Governor and Executive Council on April 3, 2013 (Item #6), July 24, 2013 (Item #1), October 15, 2014 (Item #25), December 23, 2014 (Item # 26), December 21, 2016 (Item #5G) and December 22, 2021 (Item #5C), the Contractor agrees to perform certain services, per the terms and conditions specified in the contract, at no further cost to the State and in consideration of payment previously made by the State to the Contractor.

WHEREAS, The Contractor and the State have agreed to amend the Agreement in certain respects;

NOW THEREFORE, in consideration of the foregoing, and the covenants and conditions contained in the Agreement and set forth herein, the parties hereto do hereby agree as follows:

1. Amendment and Modification of Agreement; The completion date as set forth in the Agreement shall be extended from December 31, 2022 to December 31, 2023, wherever it occurs in the Agreement.
2. Amendment and Modification of Agreement; the period of certification as set forth on Standard Exhibit D shall be extended to December 31, 2023.
3. Effective Date of Amendment: This Amendment shall take effect upon Governor and Executive Council approval.
4. Continuance of Agreement: Except as specifically amended and modified by the terms and conditions of this Amendment, the Agreement, and the obligations of the parties thereunder, shall remain in full force and effect in accordance with the terms and conditions set forth therein.



CONTRACT AMENDMENT NH DEPT. OF ENERGY

IN WITNESS WHEREOF, the parties have hereunto set their hands as of the day and year first above written.

STATE OF NEW HAMPSHIRE  
NH Department of Energy

By: [Signature]  
Jared Chicoine, Commissioner

Community Development Finance Authority

By: [Signature]  
(Name & Title of Person Authorized to Sign)  
Katherine Easterly Martey  
Executive Director

State of New Hampshire  
County of Merriamack

On this 7th day of November, 2022, before me, Margaret B. Pierce, the undersigned officer, personally appeared Katherine A. Easterly Martey who acknowledged himself/herself to be the Executive Director of the Community Development Finance Authority, and that he/she being authorized so to do, executed the foregoing instrument for the purposes contained therein



[Signature]  
Notary Public/Justice of the Peace  
My Commission expires: November 22, 2026



IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Approved as to form, execution and substance:

OFFICE OF THE ATTORNEY GENERAL

By: [Signature]  
Assistant Attorney General

Date: 12/6/2022

**State of New Hampshire**  
**Department of State**

**CERTIFICATE**

I, David M. Scanlan, Secretary of State of the State of New Hampshire, do hereby certify that COMMUNITY DEVELOPMENT FINANCE AUTHORITY a New Hampshire State Chartered (Legislative) formed to transact business in New Hampshire on July 01, 1983. I further certify that it has paid the fees required by law and has not dissolved.

Business ID: 81003

Certificate Number : 0005761153



IN TESTIMONY WHEREOF,

I hereto set my hand and cause to be affixed  
the Seal of the State of New Hampshire,  
this 18th day of April A.D. 2022.

A handwritten signature in black ink, appearing to read "David M. Scanlan".

David M. Scanlan  
Secretary of State

## CERTIFICATE OF AUTHORITY

I, Cynthia Harrington, hereby certify that:

1. I am a duly elected Clerk/Secretary/Officer of New Hampshire Community Development Finance Authority.
2. The following is a true copy of a vote taken at a meeting of the Board of Directors/shareholders, duly called and held on September 13, 2022, at which a quorum of the Directors/shareholders were present and voting.

**VOTED:** That Katherine Easterly Martey, Executive Director

is duly authorized on behalf of New Hampshire Community Development Finance Authority to enter into contracts or agreements with the State of New Hampshire and any of its agencies or departments and further is authorized to execute any and all documents, agreements and other instruments, and any amendments, revisions, or modifications thereto, which may in his/her judgment be desirable or necessary to effect the purpose of this vote.

3. I hereby certify that said vote has not been amended or repealed and remains in full force and effect as of the date of the contract/contract amendment to which this certificate is attached. This authority **remains valid for thirty (30) days** from the date of this Certificate of Authority. I further certify that it is understood that the State of New Hampshire will rely on this certificate as evidence that the person(s) listed above currently occupy the position(s) indicated and that they have full authority to bind the corporation. To the extent that there are any limits on the authority of any listed individual to bind the corporation in contracts with the State of New Hampshire, all such limitations are expressly stated herein.

Dated: November 7, 2022



Signature of Elected Officer

Name: Cynthia Harrington

Title: Chairman, Board of Directors



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
5/6/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> THE ROWLEY AGENCY INC. 45 Constitution Avenue P.O. Box 511 Concord NH 03302-0511		<b>CONTACT NAME:</b> Maureen Demick <b>PHONE (A/C No. Ext):</b> (603) 224-2562 <b>FAX (A/C No.):</b> (603) 224-8013 <b>E-MAIL ADDRESS:</b> mdemick@rowleyagency.com	
		<b>INSURER(S) AFFORDING COVERAGE</b> INSURER A: Liberty Mutual Ins Co (Peerless)	<b>NAIC #</b>
<b>INSURED</b> New Hampshire Community Development Finance Authority 14 Dixon Ave Suite 102 Concord NH 03301		INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:	

**COVERAGES**      **CERTIFICATE NUMBER: 22-23**      **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:			BKA58556085	5/26/2022	5/26/2023	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ Excluded GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP/AGG \$ 2,000,000 \$
A	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO ALL OWNED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> SCHEDULED AUTOS NON-OWNED AUTOS			BAA58556085	5/26/2022	5/26/2023	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 10,000			US058556085	5/26/2022	5/26/2023	EACH OCCURRENCE \$ 3,000,000 AGGREGATE \$ 3,000,000 \$
A	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory In NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	XMS58556085 States Covered: NH Excluded Officers: John Manning, Mary Ann Kristiansen	5/26/2022	5/26/2023	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 500,000 E.L. DISEASE - EA EMPLOYEE \$ 500,000 E.L. DISEASE - POLICY LIMIT \$ 500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

<b>CERTIFICATE HOLDER</b>  State of New Hampshire NH Dept of Energy 21 S. Fruit Street, Suite 10 Concord, NH 03301	<b>CANCELLATION</b>  SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.  AUTHORIZED REPRESENTATIVE  Maureen Demick/DEMICK
---	---

YOR

COMMISSIONER  
Jared Chiofalo



5C

TDD Access: Relay NH  
1-800-735-2964

Tel. (603) 271-3670

FAX No. 271-1526

DEPUTY COMMISSIONER  
Christopher J. Ellms, Jr.

Website:  
www.energy.nh.gov

DEPARTMENT OF ENERGY  
21 S. Fruit St., Suite 10  
Concord, N.H. 03301-2429

December 06, 2021

His Excellency, Governor Christopher T. Sununu  
and the Honorable Council  
State House  
Concord, NH 03301

**REQUESTED ACTION**

The NH Department of Energy (ENERGY) respectfully requests authorization to amend a contract with the Community Development Finance Authority (CDFA), (Vendor #177292), Concord, NH, to operate existing revolving loan funds and loan loss reserves which support a program known as Better Buildings under the terms of an American Recovery and Reinvestment Act – Energy Efficiency and Conservation Block Grant’s Retrofit Ramp-up Program (Retrofit Ramp-up) award to ENERGY (formerly OEP) from the US Department of Energy, by extending the completion date from December 31, 2021 to December 31, 2022, effective upon Governor and Executive Council approval. This contract enables CDFA to continue managing the loan funds and ensures continued compliance with federal funding restrictions and requirements. No additional funding is requested in this request.

**EXPLANATION**

Under this contract, CDFA agrees to continue to operate Better Buildings according to guidelines issued by the US Department of Energy through the Energy Efficiency and Conservation Block Grant Program for revolving loan funds. CDFA has managed the program since its creation under the authority of a contract between The Office of Energy and Planning (OEP) and CDFA first approved by the Governor and Executive Council on July 14, 2010 (Item #9), and subsequently amended and approved by the Governor and Executive Council on April 3, 2013 (Item #6), July 24, 2013 (Item #1), October 15, 2014 (Item #25), and December 23, 2014 (Item # 26). With \$10 million in original funding from the U.S. Department of Energy's Better Buildings Neighborhood Program, the NH Better Buildings program initially provided funds to allow the three "Beacon Communities" of Berlin, Nashua and Plymouth to achieve transformative energy savings through deep energy retrofits and complementary sustainable energy projects. The program's goal was to reduce energy use by at least 15% through energy efficiency upgrades in residential and commercial buildings. The program expanded statewide in April 2012 through a competitive commercial RFP and a partnership with the state's utility administered, ratepayer funded Home Performance with ENERGY STAR® (HPwES) program. During the program, four financial products were established:



1. Better Buildings Residential Revolving Loan Fund (Residential RLF) – which provided 0% on-bill financing through partnership with the state's utility run Home Performance with ENERGY STAR® (HPwES) program, and which now focuses on financing efficiency projects in multi-family housing.
2. Better Buildings Residential Loan Loss Reserve (Residential LLR) – 50% loan loss reserve funds backing residential bank and credit union loans for energy efficiency
3. Better Buildings Commercial Revolving Loan Fund (Commercial RLF) – which finances energy efficiency projects in commercial projects
4. Better Buildings Commercial Loan Loss Reserve (Commercial LLR) – 50% loan loss reserve funds backing commercial bank and credit union loans for energy efficiency

Residential and commercial loan repayments and interest income accumulate in two Revolving Loan Funds to be utilized for future loans. The two Loan Loss Reserves earn interest and are available to back additional loans once the aggregate outstanding loan principal is less than the amount of the reserve.

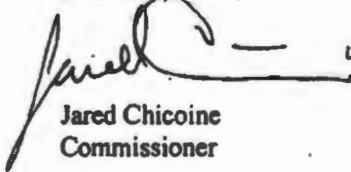
CDFA and its partners have used the Better Buildings fund to make more than 300 loans to New Hampshire businesses and individuals totaling \$3,044,500. None of the loans in CDFA's own Better Buildings Portfolio has ended in default. CDFA will continue to receive principal and interest payments on those loans. Additional loans will be made with funds revolving back into the program as described in the accompanying contract exhibits. The importance of maintaining continuity in these long-term lender-borrower relationships is the reason ENERGY seeks a one-year contract renewal at this time.

This agreement will allow CDFA to continue to provide funding for cost-effective energy efficiency projects undertaken by New Hampshire residents, businesses, and nonprofits, according to the terms and conditions accompanying the Federal award and additional Federal guidance governing the administration of the funds, and will allow for continued monitoring and reporting on the impact of such funds to US DOE. Funding for CDFA's management of the Better Buildings funds will come from program funds currently held by CDFA, and from any program income, as described in Exhibit A.

CDFA has successfully managed the Better Buildings program under the original ARRA-EECBG award from the US Department of Energy, and is uniquely suited to manage these public funds for the purposes of supporting energy efficiency investments in New Hampshire.

In the event that Better Buildings Federal program funds are no longer available, General Funds will not be requested to support this program.

Sincerely



Jared Chicoine  
Commissioner

JE/JEL  
Attachments



**AMENDMENT to CONTRACT between  
The New Hampshire DEPARTMENT OF ENERGY  
and the  
Community Development Finance Authority  
for  
American Recovery and Reinvestment Act — Energy Efficiency and Conservation Block Grant  
(EECBG)  
New Hampshire Better Buildings Program**

**This Amendment is between the State of New Hampshire, Department of Energy, 21 Fruit Street, Suite 10, Concord, Merrimack County, New Hampshire 03301 (ENERGY) and the Community Development Finance Authority, Authority (CDFA), 14 Dixon Avenue, Suite 102, Concord, Merrimack County, New Hampshire, 03301 (hereinafter referred to as the "Contractor").**

**Pursuant to a Contract originally approved by the State of New Hampshire Governor and Executive Council on July 10, 2010, Item #4, Amendment #1 approved on April 3, 2013, Item #6, Amendment #2 approved on July 24, 2013, Item #1, Amendment #3 approved on October 15, 2014, Item #25, and Amendment #4 approved on December 23, 2014, Item #26, the Contractor agrees to perform certain services, per the terms and conditions specified in the Contract, at no further cost to the State and in consideration of payment previously made by the State to CDFA.**

**WHEREAS, pursuant to the provisions in Paragraph 17 of the Contract, the Contract may be modified or amended only by a written instrument executed by the parties thereto and only after approval of such modification or amendment by the Governor and Council;**

**WHEREAS, ENERGY and the Contractor have agreed to amend the Contract in certain respects;**

WHEREAS, the New Hampshire Better Buildings Program was established with funds from the American Recovery and Reinvestment Act (ARM) Energy Efficiency and Conservation Block Grant DE-EE-0003576, CFDA 81.128, provided to ENERGY by the federal Department of Energy (US DOE);

WHEREAS, the Contract was executed between ENERGY and CDFA stipulating the terms and conditions under which the New Hampshire Better Buildings Program was to be established and administered;

WHEREAS, ENERGY provided a total of \$8,647,899.00 to CDFA in 2010 to create the New Hampshire Better Buildings Program ("Program") to establish an initiative that empowered the communities of Berlin, Nashua and Plymouth to achieve transformative energy savings, and reductions in fossil fuel use and greenhouse gases through deep energy retrofits and sustainable energy solutions;

WHEREAS, the original Contract was subsequently amended on April 3, 2013, July 24, 2013, October 15, 2014, and December 23, 2014 enabling the program to benefit communities and businesses throughout New Hampshire;

WHEREAS, EECBG Program Notice 09-002D "Guidance for Energy Efficiency and Conservation Block Grant Grantees on Financing Programs" stipulates the ongoing constraints that apply to the New Hampshire Better Buildings Program; and

WHEREAS, and no additional funds will be provided by ENERGY to CDFA for the New Hampshire Better Buildings Program;

NOW THEREFORE, in consideration of the foregoing, and the covenants and conditions in the Contract and set forth herein, the parties agree to the following:

1. Amendment and Modification of Agreement: This Agreement is hereby amended and modified as follows:
  - a. Change the completion/end date: to December 31, 2022 wherever it occurs in the Agreement.
2. Continuance of Agreement: Except as specifically amended and modified by the Terms and Conditions of the Amendment, obligations of the parties hereunder shall remain in full force and effect in accordance with the terms and conditions set forth in the Contract as it existed immediately prior to this Amendment.

IN WITNESS WHEREOF, the parties have hereunto set their hands as of the day and year first above written.

Community Development Finance Authority

By: 

Katherine Easterly Martey, Executive Director

State of New Hampshire

County of Hillsborough

Emilie Thompson

On this day of 3rd of December 2021, before me Katherine, the undersigned officer, personally appeared Katherine Fosterly Marky, who acknowledged herself/himself to be the person who executed the foregoing instrument for the purpose therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Emilie Thompson

My Commission Expires: October 2, 2024



THE STATE OF NEW HAMPSHIRE

Department of Energy

By: Jared Chicoine

Jared Chicoine, Interim Commissioner

Approved by Attorney General this 7th day of December 2021, as to form, substance and execution.

OFFICE OF ATTORNEY GENERAL

Joshua Harrison

Name: Joshua Harrison

Title: Assistant Attorney General

I hereby certify that the forgoing Amendment was approved by the Governor and Executive Council of the State of New Hampshire at the meeting on: \_\_\_\_\_ (date of meeting).

OFFICE OF THE SECRETARY OF STATE

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name: Title:

## Business Information

### Business Details

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Business Name:	COMMUNITY DEVELOPMENT FINANCE AUTHORITY	Business ID:	81003
Business Type:	State Chartered (Legislative)	Business Status:	Active
Business Creation Date:	07/01/1983	Name in State of Formation:	Not Available
Date of Formation in Jurisdiction:	07/01/1983	Mailing Address:	NONE
Principal Office Address:	NONE	Last Annual Report Year:	N/A
Citizenship / State of Formation:	Domestic/New Hampshire	Next Report Year:	N/A
Duration:	Perpetual	Phone #:	NONE
Business Email:	NONE	Fiscal Year End Date:	NONE
Notification Email:	NONE		

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### Principal Purpose

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S.No	NAICS Code	NAICS Subcode
1	OTHER / PERFORMANCE OF ESSENTIAL GOVERNMENTAL FUNCTIONS.	

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Page 1 of 1, records 1 to 1 of 1

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### Principals Information

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No Principal(s) listed for this business.

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### Registered Agent Information

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Name: Not Available

Registered Office Not Available  
Address:

Registered Mailing Not Available  
Address:

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### Trade Name Information

---

No Trade Name(s) associated to this business.

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### Trade Name Owned By

---

No Records to View.

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### Trademark Information

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Trademark Number	Trademark Name	Business Address	Mailing Address
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No records to view.

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[Filing History](#)   [Address History](#)   [View All Other Addresses](#)   [Name History](#)   [Shares](#)

[Businesses Linked to Registered Agent](#)   [Return to Search](#)   [Back](#)

NH Department of State, 107 North Main St. Room 204, Concord, NH 03301 -- [Contact Us](#)

[\(/online/Home/ContactUS\)](#)

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**CERTIFICATE**

I, Michael Clafin, Chair of the Community Development Finance Authority do hereby certify that: (1) I am the duly elected and acting Chair of the Community Development Finance Authority, a New Hampshire non-profit corporation and public authority ("The Corporation"); I am familiar with the minute books of the Corporation (3) I am duly authorized to issue certificates with respect to the contents of such books; (4) the following are true, accurate and complete copies of the resolutions adopted by the Board of Directors of the Corporation at a meeting of the said Board of Directors held on the 14th day of September, 2021, which meeting was duly held in accordance with New Hampshire law and the by-laws of the Corporation.

**Resolved:** That this Corporation authorizes Executive Director, Katherine Easterly Martey, on behalf of this Corporation, to take any and all such actions and to execute, acknowledge and deliver for and on behalf of this Corporation any and all documents, agreements and other instruments (and any amendments, revisions or modifications thereto) as she may deem necessary, desirable or appropriate, in the negotiation and execution of any and all contractual obligations and letter agreements;

**Resolved:** That the signature of the Executive Director of this Corporation affixed to any instrument or document described in or contemplated by these resolutions shall be conclusive evidence of the authority of said officer to bind this Corporation thereby;

**Resolved:** That the Corporation shall be bound by any decision made by a State of New Hampshire court, or any agreement entered into by the individuals authorized above.

(5) the foregoing resolutions have not been revoked, annulled, or amended in any manner whatsoever, and remain in full force and in effect as of the date hereof:

(6) the following person(s) have been duly appointed to and now occupy the Office(s) indicated below:

Katherine Easterly Martey, Executive Director

**IN WITNESS WHEREOF**, I have hereunto set my hand as the Chairman of the Corporation this 14th day of September, 2021.

  
Michael Clafin, Chair

**STATE OF NEW HAMPSHIRE**  
**County of MERRIMACK**

On this the 14<sup>th</sup> day of September, 2021 before me, the undersigned officer, personally appeared Michael Clafin, who acknowledged himself to be the Chair of the Community Development Finance Authority, a non-profit corporation, and that he as such Chair being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the organization by himself as Chair.

In witness whereof I hereunto set my hand and official seal.

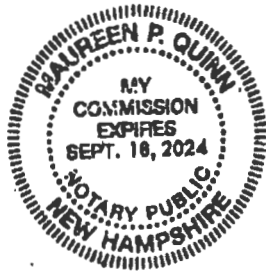
My commission expires: SEPT 18, 2024



\_\_\_\_\_  
Maureen P. Quinn

\_\_\_\_\_, Notary Public

(Seal)







# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
12/6/2021

**THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.**

**IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).**

<b>PRODUCER</b> A.B. Gile a Division of The Rowley Agency, Inc. PO Box 66 Hanover, NH 03755	<b>CONTACT NAME:</b> Maureen Demick <b>PHONE (AC, No, Ext):</b> 603-643-4540 <b>FAX (AC, No):</b> 603-643-4848 <b>E-MAIL ADDRESS:</b> mdemick@abgile.com <hr/> <b>INSURER(S) AFFORDING COVERAGE</b> <b>NAIC #</b> INSURER A: Liberty Mutual Ins Co (Peerless) INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:
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**COVERAGES**      **CERTIFICATE NUMBER: 21-22 COI**      **REVISION NUMBER:**

**THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.**

PBR LTR	TYPE OF INSURANCE	ADDL INSR	INSR WWD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <hr/> GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO.JECT <input type="checkbox"/> LOC OTHER:			BRAS8556085	5/26/2021	5/26/2022	EACH OCCURRENCE      \$ 1,000,000 DAMAGE TO RENTED PREMISES (EA OCCURRENCE)      \$ 300,000 MED EXP (Any one person)      \$ 5,000 PERSONAL & ADV INJURY      \$ Excluded GENERAL AGGREGATE      \$ 2,000,000 PRODUCTS - COMPIOP AGG      \$ 2,000,000 Employee Benefits      \$ 1,000,000
A	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS			BAAS8556085	5/26/2021	5/26/2022	COMBINED SINGLE LIMIT (EA ACCIDENT)      \$ 1,000,000 BODILY INJURY (Per person)      \$ BODILY INJURY (Per accident)      \$ PROPERTY DAMAGE (Per accident)      \$ \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 10,000			US08556085	5/26/2021	5/26/2022	EACH OCCURRENCE      \$ 3,000,000 AGGREGATE      \$ 3,000,000 \$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	XW85856085 States Covered Part 3.A. NH	5/26/2021	5/26/2022	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT      \$ 500,000 E.L. DISEASE - EA EMPLOYEE      \$ 500,000 E.L. DISEASE - POLICY LIMIT      \$ 500,000

**DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)**  
 Excluded Officers: John Manning, Mary Ann Kristiansen

**CERTIFICATE HOLDER**      **CANCELLATION**

State of New Hampshire NH Dept of Energy 21 S. Fruit Street, Suite 10 Concord, NH 03301	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. <hr/> AUTHORIZED REPRESENTATIVE Maureen Demick/DEMICK
--	--



MARGARET WOOD HASSAN  
GOVERNOR

STATE OF NEW HAMPSHIRE  
OFFICE OF ENERGY AND PLANNING  
107 Pleasant Street, Johnson Hall  
Concord, NH 03301-3834  
Telephone: (603) 271-2155  
Fax: (603) 271-2615



December 5, 2016

Her Excellency, Governor Margaret Wood Hassan  
and the Honorable Council  
State House  
Concord, NH 03301

Approval by the Governor  
and Council on 12-21-16  
Agenda Item Consent Calendar  
(Other items) # 6

REQUESTED ACTION

The Office of Energy and Planning requests to place this item on the Consent Calendar.

The Office of Energy and Planning (OEP) respectfully requests authorization to amend a SOLE SOURCE Agreement with the Community Development Finance Authority (CDFA), (VC #177292), Concord, NH, to operate existing revolving loan funds and loan loss reserves which support a program known as Better Buildings under the terms of the American Recovery and Reinvestment Act – Energy Efficiency and Conservation Block Grant’s Retrofit Ramp-up Program (Retrofit Ramp-up) from the U.S. Department of Energy (US DOE, by extending the completion date from December 31, 2016 to December 31, 2021 and changing the terms of the Scope of Service, effective January 1, 2017, upon approval of Governor and Executive Council. The original agreement was approved by Governor and Executive Council on December 23, 2014 (Item # 26). No additional funding is requested in this request.

EXPLANATION

Under this agreement, CDFA agrees to continue to operate Better Buildings according to guidelines issued by the US DOE through the Energy Efficiency and Conservation Block Grant Program for revolving loan funds. CDFA has managed the program since its creation under the authority of a contract (PO #1010677) between OEP and CDFA first approved by Governor and Executive Council on July 14, 2010 (Item #9), and subsequently amended and approved by the Governor and Executive Council on April 3, 2013 (Item #6), July 24, 2013 (Item #1), and October 15, 2014 (Item #25). With \$10 million in original funding from the US DOE’s Better Buildings Neighborhood Program, the NH Better Buildings program initially provided funds to allow the three “Beacon Communities” of Berlin, Nashua and Plymouth to achieve transformative energy savings through deep energy retrofits and complementary sustainable energy projects. The program’s goal was to reduce energy use by at least 15% through energy efficiency upgrades in residential and commercial buildings. The program expanded statewide in April 2012 through a competitive commercial RFP and a partnership with the state’s utility administered, ratepayer funded Home Performance with ENERGY STAR® (HPwES) program. During the program, four financial products were established:

1. Better Buildings Residential Revolving Loan Fund (Residential RLF) – which provided 0% on-bill financing through partnership with the state’s utility run Home Performance with ENERGY STAR® (HPwES) program, and which now focuses on financing efficiency projects in multi-family housing.
2. Better Buildings Residential Loan Loss Reserve (Residential LLR) – 50% loan loss reserve funds backing residential bank and credit union loans for energy efficiency
3. Better Buildings Commercial Revolving Loan Fund (Commercial RLF) – which finances energy efficiency projects in commercial projects

4. Better Buildings Commercial Loan Loss Reserve (Commercial LLR) – 50% loan loss reserve funds backing commercial bank and credit union loans for energy efficiency

Residential and commercial loan repayments and interest income accumulate in two Revolving Loan Funds to be utilized for future loans. The two Loan Loss Reserves earn interest and are available to back additional loans once the aggregate outstanding loan principal is less than the amount of the reserve.

Adjustments to the Scope of Service include the following: eliminating terms and conditions that are no longer relevant to the continued operation of the program (the need to maintain a separate program management plan; operating three community offices to promote the benefits of energy efficiency and renewable energy; to provide grants for energy audits of buildings; and provide Interest Rate Buydowns and Loan Loss Reserves to promote building owner's investment in energy projects); increasing reimbursement rates from 2.0% to 3.0% of the value of the revolving loan fund and from 0.25% to 0.50% of the loan loss reserves to cover additional technical assistance for building owners in the planning and evaluating of energy projects; and to update references to US DOE program guidance to the most recent versions providing regulatory oversight to the operations of the program including recognition of the Uniform Grant Guidance contained in 2 CFR 200.

CDFA and its partners have used the Better Buildings fund to make or incentivized 347 loans to New Hampshire businesses and individuals totaling \$3,409,674. None of the loans in CDFA's own Better Buildings Portfolio has ended in default, and only three (3) of the residential loans made under the program by electric utilities ended in default. CDFA will receive principal and interest payments on those loans for up to the next five years. Additional loans will be made with funds revolving back into the program as described in the accompanying contract exhibits. The importance of maintaining continuity in these long-term lender-borrower relationships is the reason OEP seeks a five-year contract renewal at this time.

This agreement will allow CDFA to continue to provide funding for cost-effective energy efficiency projects undertaken by New Hampshire residents, businesses, and nonprofits, according to the terms and conditions accompanying the Federal award and additional Federal guidance governing the administration of the funds, and will allow for continued monitoring and reporting on the impact of such funds to US DOE. Funding for CDFA's management of the Better Buildings funds will come from program funds currently held by CDFA, and from any program income, as described in Exhibit A.

This contract is **SOLE SOURCE** because CDFA has successfully managed the Better Buildings program under the original ARRA-EECBG award from the US Department of Energy, and is uniquely suited to manage these public funds for the purposes of supporting energy efficiency investments in New Hampshire. This contract enables CDFA to continue managing the loan funds and ensures continued compliance with federal funding restrictions and requirements.

Respectfully submitted,



Amanda Merrill  
Director

AM/RAM  
Attachments



**AMENDMENT to CONTRACT**  
between  
**The New Hampshire OFFICE of ENERGY and PLANNING**  
and the  
**Community Development Finance Authority**  
for  
**American Recovery and Reinvestment Act — Energy Efficiency and Conservation Block Grant**  
**New Hampshire Better Buildings Program**

This Amendment is between the State of New Hampshire, Office of Energy and Planning, 107 Pleasant Street, Johnson Hall, Concord, Merrimack County, New Hampshire 03301 (OEP) and the Community Development Finance Authority, Authority (CDFA), 14 Dixon Avenue, Suite 102, Concord, Merrimack County, New Hampshire, 03301 (hereinafter referred to as the "Contractor").

Pursuant to a Contract originally approved by the State of New Hampshire Governor and Executive Council on July 10, 2010, Item #3, Amendment #1 approved on April 3, 2013, Item #6, Amendment #2 approved on July 24, 2013, Item #1, Amendment #3 approved on October 15, 2014, Item #25, and Amendment #4 approved on December 23, 2014, Item #26, the Contractor agrees to perform certain services, per the terms and conditions specified in the contract, at no further cost to the State and in consideration of payment previously made by the State to CDFA.

WHEREAS, pursuant to the provisions in Paragraph 18 of the Contract, the contract may be modified or amended only by a written instrument executed by the parties thereto and only after approval of such modification or amendment by the Governor and Council;

WHEREAS, OEP and the Contractor have agreed to amend the Contract in certain respects;

WHEREAS, the New Hampshire Better Buildings Program was established with funds from the American Recovery and Reinvestment Act (ARRA) Energy Efficiency and Conservation Block Grant DE-EE-0003576, CFDA 81.128, provided to OEP by the federal Department of Energy (US DOE);

WHEREAS, A contract was executed between OEP and CDFA stipulating the terms and conditions under which the New Hampshire Better Buildings Program was to be established and administered;

WHEREAS, OEP provided at total of \$8,647,899.00 to CDFA in 2010 to create the New Hampshire Better Buildings Program ("Program") to establish an initiative that empowered the communities of Berlin, Nashua and Plymouth to achieve transformative energy savings, and reductions in fossil fuel use and greenhouse gases through deep energy retrofits and sustainable energy solutions;

WHEREAS, the original contract was subsequently amended on April 3, 2013, July 24, 2013, October 15, 2014, and December 23, 2014 enabling the program to benefit communities and businesses throughout New Hampshire;

WHEREAS, EECBG Program Notice 09-002D “Guidance for Energy Efficiency and Conservation Block Grant Grantees on Financing Programs” stipulates the ongoing constraints that apply to the New Hampshire Better Buildings Program; and

WHEREAS and no additional funds will be provided by OEP to CDFA for the New Hampshire Better Buildings Program;

NOW THEREFORE, in consideration of the foregoing, and the covenants and conditions in the Contract and set forth herein, the parties agree to the following:

1. Amendment and Modification of Agreement: This Agreement is hereby amended and modified as follows:

1.1. Change to Scope of Services: Amend Exhibit A of the Agreement, initialed and dated by CDFA on December 12, 2014, by replacing it in its entirety with the amended Exhibit A, initialed and dated on December 1, 2016 by CDFA.

1.2. Change the completion/end date: to December 31, 2021 wherever it occurs in the Agreement.

1.3. Exhibit B of the Agreement, initialed and dated by CDFA on December 12, 2014 will no longer be in effect for any work performed after December 31, 2016,


2. Continuance of Agreement: Except as specifically amended and modified by the Terms and Conditions of the Amendment, obligations of the parties hereunder shall remain in full force and effect in accordance with the terms and conditions set forth in the Contract as it existed immediately prior to this Amendment.

IN WITNESS WHEREOF, the parties have hereunto set their hands as of the day and year first above written.

STATE OF NEW HAMPSHIRE  
Office of Energy and Planning

By:   
Amanda Merrill, Director

Community Development Finance Authority

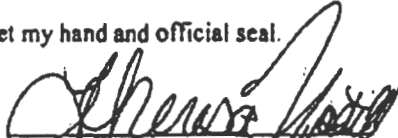
By:   
Taylor Caswell, Executive Director

State of New Hampshire

County of Merimack

On this day of December 1, 2016, before me, Theresa Upstill Taylor Caswell, the undersigned officer, personally appeared Taylor Caswell, who acknowledged himself/herself to be the Executive Director of CDFA, a Non-Profit, and that he/she, as such Executive Director being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself/herself as Executive Director

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

  
Notary Public/Justice of the Peace



My Commission expires: July 14, 2017

Approved as to form, execution, and substance:

OFFICE OF ATTORNEY GENERAL

By: Chris Ari  
Assistant Attorney General

Date: December 6, 2016

I hereby certify that the foregoing Contract was approved by the Governor and Council of the State of New Hampshire at their meeting on DEC 21 2016.

OFFICE OF THE SECRETARY OF STATE

By: Don Scamman

**DEPUTY SECRETARY OF STATE**



**Exhibit A – Scope of Services**

**BETTER BUILDINGS PROGRAM AGREEMENT  
REVOLVING LOAN FUND & LOAN LOSS RESERVE MANAGEMENT**

This amendment to the agreement (Agreement) is made this 1<sup>st</sup> day of December 2016, by and between the State of New Hampshire, Office of Energy and Planning, Johnson Hall, 107 Pleasant Street, Concord, New Hampshire 03301 (OEP) and the Community Development Finance Authority organized under the laws of the State of New Hampshire, having an address of 14 Dixon Avenue, Suite 102, Concord, NH 03301 (CDFA).

**WITNESSETH:**

WHEREAS, the U.S. Department of Energy's Better Buildings Neighborhood Program awarded \$10 million under the Energy Efficiency Conservation Block Grant program to the State of New Hampshire in 2010 to create the New Hampshire Better Buildings Program (Program) to establish an initiative that empowered the communities of Berlin, Nashua and Plymouth to achieve transformative energy savings, and reductions in fossil fuel use and greenhouse gases through deep energy retrofits and sustainable energy solutions; and

WHEREAS, the OEP contracted with CDFA on July 14, 2010, to administer the Better Buildings program under the terms and conditions as described in the agreement between the U.S. Department of Energy and OEP; and

WHEREAS, the original contract was subsequently amended on April 3, 2013, July 24, 2013, October 15, 2014 and December 23, 2014, enabling the program to benefit communities and businesses throughout New Hampshire; and

WHEREAS, CDFA has successfully managed the Better Buildings program under the original ARRA-EECBG award. The program has financed 347 energy efficiency projects to date; and

WHEREAS, OEP wishes to have CDFA continue to, and CDFA wishes to continue to, administer the Better Buildings program for the State of New Hampshire;

NOW THEREFORE, in consideration of the premises contained herein, and other good and valuable consideration, OEP and CDFA hereby modify the Agreement as follows:

Contractor Initials:

Date: 12/1/16

## 1. Program Guidance

This Program shall be administered in accordance with EECBG Program Notice 09-002D "Guidance for Energy Efficiency and Conservation Block Grant Grantees on Financing Programs" hereby attached as Exhibit B and the "Letter to EECBG Financing Program Managers," published in July 2014, hereby attached as Exhibit C, as may be amended from time to time by the U.S. Department of Energy (US DOE).

## 2. Definitions

2.1 The definitions outlined in the Code of Federal Regulations (CFR), as may be updated from time to time, shall apply to the administration of this agreement. Specific attention shall be paid to 2 CFR 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards and 10 CFR – Code of Federal Regulations for Department of Energy.

2.2 Qualified Business: A for-profit or nonprofit entity that at the time of loan or incentive is:

2.2.1 Registered with the NH Secretary of State's office and physically located in New Hampshire;

2.2.2 Not debarred from receiving federal funds as determined by their appearance on the federal excluded parties list system ([www.sam.gov](http://www.sam.gov));

2.2.3 Proposing to use Better Buildings funds for an Allowable Project Purpose as described in paragraph; and

2.2.4 Meets all program requirements as may be in effect at the time of the loan.

2.3 Allowable Project Purpose: Better Buildings projects must meet the programmatic requirements as outlined in program guidance, including but not limited to:

2.3.1 A minimum 15% energy savings must be achieved for installed measures on a per project basis;

2.3.2 Allowable measures include:

2.3.2.1 Air sealing and insulation

2.3.2.2 HVAC equipment replacement

2.3.2.3 Photovoltaics and solar hot water systems that are categorically excluded under the National Environmental Policy Act (NEPA)

2.3.2.4 Energy recovery systems

2.3.2.5 Energy efficient lighting, windows, doors, fans, motors, equipment

2.3.2.6 Energy audits to buildings located in New Hampshire

2.3.2.7 Any other project purpose as approved in writing by OEP in advance of the project commencing work.



**2.3.3 Project paybacks:**

2.3.3.1 Energy efficiency projects will have an expected simple payback of 10 years or less

2.3.3.2 Renewable energy projects will have an expected simple payback of 20 years or less

2.3.3.3 No loan shall exceed the project's expected simple payback

**3. Term:**

This Agreement is effective January 1, 2017 upon approval of Governor and Executive Council through December 31, 2021 except as it may be terminated within the terms of Form P-37, Section 8 – "Event of Default/Remedies", Form P-37, Section 10 – "Termination" and section 8, below, "Termination".

**4. Scope of Services:**

CDFA will administer the Better Buildings program in accordance with US DOE and OEP program guidance. CDFA shall administer the Better Buildings program individually for each of the four (4) Financial Products that must be accounted for and reported on separately, those being:

4.1. Commercial Revolving Loan Fund

4.2. Residential Revolving Loan Fund

4.3. Commercial Loan Loss Reserves

4.4. Residential Loan Loss Reserves

CDFA agrees that it shall not transfer funds between Financial Products without the prior written approval of OEP. OEP agrees that it shall give prompt consideration to any request(s) by CDFA to transfer funds between Financial Products and if mutually agreed upon between OEP and CDFA, request approval of such transfer from the US DOE.

4.5 CDFA's responsibilities shall include, but are not limited to:

4.5.1 Providing Technical Assistance (TA) to potential projects that are contemplating the implementation of energy efficiency or renewable energy measures to help them better understand the scope of work, financial implications, relevant federal regulations and impacts of the project they are seeking to undertake.

4.5.2 Underwrite all applications for loan financing through one of the Financial Products to ensure that the loan meets program requirements and that there are reasonable expectations that it will be repaid.

4.5.3 Monitor all work performed using program funds to ensure that it is installed correctly and that all federal regulations are complied with.

4.5.4 Servicing all loans including accounting for the receipt and disbursement of all program funds in accordance with Generally Accepted Accounting Principles and Program requirements.

4.5.4 Report to OEP the financial and programmatic activity in the program on a quarterly basis and complete other reports as may be required to meet US DOE program requirements as outlined in section 5.

4.5.6 Marketing the program to maximize the use of program funds.

4.5.7 Balancing management expenses charged to the funds and income generated by the funds to extend the productive life of the funds.

4.5.8 All other activities associated with administering the program so that it is successful.

## 5. Management Reports:

CDFA shall provide Management Reports to OEP as required to meet US DOE program reporting requirements. Reports are due within 15 days after the end of each calendar quarter. OEP shall provide CDFA any concerns and requests for additional information within 7 days following the submission of each report. Reports shall include:

5.1. Financial reports detailing the financial transactions taking place in the quarter broken out by each Financial Product as identified in section 4. The report shall be submitted in form and content as specified by OEP.

5.2. Cost detail reports identifying the costs incurred, by Financial Product, in administering the program that will be reimbursed out of program funds. CDFA shall provide to OEP supporting documentation as requested.

5.3. Program narrative report describing the previous quarter's activities including projects funded, TA provided, monitoring and oversight activities and outcomes, energy savings anticipated from completed projects, a listing of delinquent loans and loans in default, and other requirements as may be requested from time to time.

5.4 Other reports as required by US DOE, including the following, will be submitted to OEP no fewer than 10 business days before OEP must submit them to US DOE:

5.4.1 Davis-Bacon and Related Acts due each April and October on projects completed in the prior six months.

5.4.2 Historic Preservation – Section 106 review due each October for the prior year.

5.4.3 Equipment and Real Property purchased with Program funds shall be due each January for equipment and real property purchased in the prior year.

5.5 Annual Financial Audit as required by 2 CFR 200 Subpart F – Audit Requirements.

## 6. Cost Reimbursement:

6.1 CDFA shall be reimbursed their costs of carrying out their responsibilities for administering the Better Buildings program as outlined in section 4, above. Costs may include, but are not limited to personnel salaries, payroll taxes and fringe benefits; travel; verification and compliance with all federal, state rules; supplies; legal filings; and indirect costs at CDFA's federally approved indirect cost rate. CDFA shall break costs out by each of the four Financial Products and maintain documentation supporting all costs for which

they are reimbursed. CDFA should strive to cover these costs with income generated by the Financial Products.

6.2 Reimbursements shall be drawn from the pool of funds available for each Financial Product in an amount equal to the amount of expenses incurred for each. One Financial Product may not subsidize reimbursement for costs incurred in the administration of another Financial Product. Should there be insufficient funds available in a Financial Product to fully reimburse CDFA, then the unreimbursed balance will be eligible to be reimbursed when funds become available from the respective Financial Product.

6.3 At any time during the performance of the Program, OEP may review the costs reported as incurred and reimbursed with program funds. OEP reserves the right to disallow any items of expense which are unallowable costs under 2 CFR 200 Subpart E—Cost Principles, which costs were not used to carry out the administration of the program, or which costs were in excess of the maximum amount allowed.

6.4 Costs incurred by CDFA may not exceed 3.00% of the value of the Commercial and Residential Revolving Loan Funds and 0.50% for the Commercial and Residential Loan Loss Reserves on the valuation date for each calendar year of this project. The valuation date shall be the September 30 of the year immediately preceding the calendar year in which the costs were incurred. In consideration of variations in program activity that may occur due to amount of funds available to lend, demand for program funds, or other factors, unused funds at the end of any calendar year may be carried forward to the following calendar year to be used for eligible administrative costs or new loans.

## 7. Program Monitoring and Compliance:

CDFA will ensure that projects funded with Better Buildings funds are carried out as contracted and in compliance with:

- 7.1. Federal procurement requirements
- 7.2. Allowable cost provisions
- 7.3. EECBG rules
- 7.4. Davis Bacon and Related Acts (DBA)
- 7.5. Buy American (municipal projects only)
- 7.6. National Environmental Policy Act
- 7.7. State Historic Preservation

CDFA shall undertake regular monitoring of Projects to ensure all regulations are followed and make the results of those monitorings available to US DOE and OEP at their request.

Compliance monitoring shall include:

- 7.8 Ensure that all borrowers have:
  - 7.8.1 Completed the loan application in full and meet lending criteria
  - 7.8.2 Provided one-year pre- and post- energy usage data
  - 7.8.3 Signed Exhibit C containing the ARRA regulations
  - 7.8.4 Provided a Certificate of Good Standing
  - 7.8.5 Been checked for Debarment
  - 7.8.6 A DUNS number

7.9 Ensure that all projects:

7.9.1 Meet energy efficiency and/or renewable energy criteria and payback requirements

7.9.2 If applicable, meet National Historic Preservation Act (NHPA) requirements

7.9.3 If applicable, meet National Environmental Policy Act (NEPA) requirements

7.10 Ensure that contractor, and any sub and sub-subs have:

7.10.1 A DUNS number

7.10.2 Been checked for Debarment

7.10.3 Provided a Certificate of Good Standing

7.10.4 Signed all ARRA regulatory requirements, including Exhibit C

7.10.5 Acknowledgement with Davis Bacon Wage determination notated

7.10.6 Insurance Certificate

7.10.7 Executed Contract with Davis Bacon wage attached

7.10.8 Fringe benefit report

7.10.9 Journeyman cards

7.11 Contractor Duties

7.11.1 Follow Buy American provisions (municipal projects only)

7.11.2 Provide CDFA and the borrower a hazardous waste disposal plan

7.11.3 Provide CDFA and the borrower a Project Timeline

7.12 Contractor Selection & Contracting

7.12.1 CDFA shall ensure that borrowers comply with ARRA language regarding the competitive selection of contractors

7.12.2 CDFA shall ensure that building contracts include ARRA language

7.13 Davis Bacon Consultant will take the lead in:

7.13.1 Working with Contractor(s) to determine Davis Bacon wage

7.13.2 Holding a Preconstruction meeting with project representatives, contractors, subcontractors and CDFA staff to review

7.13.2.1 Reporting requirements and forms

7.13.2.2 Poster Requirements

7.13.2.3 Davis Bacon certified payrolls weekly – requirements

7.13.2.4 Monthly reporting to CDFA on hours per contractor and sub

7.13.2.5 CDFA to collect all required paperwork at that time as mentioned above prior to the start of the project is preferred

7.13.2.6 Review of weekly payrolls from the entire project

7.13.2.7 Performing on site monitoring visits of the project trades & ensure posters are up and visible

7.13.2.8 Ensuring that if there isn't a category listed for a trade, then will process paperwork to get the wage determination

7.13.2.9 Works with contractors on errors to correct them in a timely manner

7.13.2.10 Providing all original Davis Bacon payrolls and restitution paperwork to the OEP weekly

7.13.3 CDFA will oversee and monitor the Davis Bacon consultant

7.13.4 Historic Preservation – Division of Historic Resources (DHR) is New Hampshire's State Historic Preservation Office (SHPO) – Section 106. CDFA will ensure that all projects

comply with the SHPO programmatic agreement and will prepare and archive all necessary Requests for Project Review forms

7.13.5 Collection of energy data one-year prior and annually from project end date, to be archived by CDFA

7.13.6 Collection and review annually of Corporate Tax Returns and Personal tax returns and Personal Financial Statement when applicable

7.14 All American Recovery and Reinvestment Act – Special Terms and Conditions shall remain in force until otherwise indicated by OEP.

**8. Termination:**

If this Agreement is not extended, modified or terminated as of the Completion Date of December 31, 2021, then CDFA shall continue to administer Better Buildings according to the terms of this agreement and any amendments hereto.

Either party may terminate the Program with just cause by sending a termination letter to the other party describing the reasons for termination and identifying a Termination Date on which CDFA will no longer administer the Program not less than 120 days subsequent to the date of the letter.

As of the Completion Date or Termination Date, CDFA shall return to OEP all funds remaining in the Better Buildings Financial Products, assign all Better Buildings loan repayments to OEP, and transfer all security held on outstanding loans to OEP, unless otherwise agreed to in writing by OEP and CDFA.



**Department of Energy**  
Washington, DC 20585

**EECBG PROGRAM NOTICE 09-002D**  
**EFFECTIVE DATE (Revised): May 26, 2016**  
**ORIGINALLY ISSUED: December 7, 2009**

**SUBJECT: GUIDANCE FOR ENERGY EFFICIENCY AND CONSERVATION  
BLOCK GRANT GRANTEES ON FINANCING PROGRAMS.**

**PURPOSE**

To provide guidance to Department of Energy (DOE) Energy Efficiency and Conservation Block Grant (EECBG) grantees on financing programs. This guidance supersedes EECBG Program notice 09-002C issued March 14, 2011.

**SCOPE**

The provisions of this guidance apply to prime recipients (i.e., States, units of local government, and Indian tribes) named in a Notification of Grant Award as the recipients of financial assistance under the DOE EECBG Program.

**LEGAL AUTHORITY**

Title V, Subtitle E of the Energy Independence and Security Act of 2007, as amended (42 U.S.C. § 17151 et seq.), authorizes DOE to administer the EECBG program. All grant awards made under this program shall comply with applicable law including the Recovery Act (Pub. L. No. 111-5) and other authorities applicable to this program.

**GUIDANCE**

This guidance pertains to the use of funds for financing programs (i.e., revolving loan fund (RLF), loan loss reserve (LLR), interest-rate buy down (IRB) and third party loan insurance). This document provides guidance on the eligible use of EECBG funds for financing programs, including guidance on issues specific to uses of funds that allow for a grantee to rely on an initial amount of funding to provide support periodically for eligible projects on an on-going basis (e.g., RLF and LLR).

**Establishment of Financing Programs**

Grantees may establish Financing Programs (Loan Loss Reserve, Revolving Loan Program, Third Party Loan Insurance and Interest Rate Buy-Down Programs). These programs may be administered by the grantees (i.e. self-administered) and/or through an agreement with a third party to administer the Financing Program on behalf of the grantee. Grantees are responsible to ensure that third party administrators comply with all federal terms and conditions and statutory requirements.

#### **Eligibility of Revolving Loan Funds**

A RLF is an eligible use of funds under the EECBG Program to the extent that the activities supported by the loans are eligible activities under the program. EECBG grantees must comply with applicable laws regarding RLFs. 42 U.S.C. § 17155 (b)(3)(B) mandates a limitation on the use of funds for the establishment (*i.e.*, the capitalization) of RLFs by formula-eligible units of local governments and formula-eligible tribes equal to the greater of 20 percent of the grantee's allocation or \$250,000. Funds used for administrative costs to set up a RLF are not subject to this restriction, but are subject to the general limitations established by statute on administrative costs.

**Leveraging Funds under EECBG: Purpose and Type of Leveraging under EECBG** Grantee arrangements for leveraging additional public and private sector funds, including rebates, grants, and other incentives, must be arranged to ensure that Federal funds go to support eligible activities listed in 42 U.S.C. § 17154(3)-(13). The leveraging of funds may be accomplished through mechanisms such as partnerships with third party lenders, co-lending, third party administration of loans, and LLRs.

#### **Loan Loss Reserves under EECBG**

EECBG funds may be used for a LLR to support loans made with private and public funds and to support a sale of loans made by a grantee or third party lenders into a secondary market, subject to the following conditions. In order to ensure that a use of EECBG funds to leverage additional public and private sector funds furthers the stated purposes of the EECBG Program, the activities supported by the leveraged funds are limited to those activities specifically listed as eligible activities in the EECBG statute. Additionally, a grantee must ensure that the following conditions are met:

- a) a grantee shall have the right to review and monitor loans provided by third party lenders to ensure that loans are being made to support eligible activities listed in 42 U.S.C. § 17154(3)-(13) and comply with conditions of Recovery Act funds (e.g., Buy American, and the National Environmental Policy Act (NEPA) where applicable;
- b) a grantee establishing a LLR has no legal or financial obligation beyond the funds committed to the reserve and is not subject to further recourse in the event losses exceed the amount of the reserve;
- c) any EECBG funds used to establish a LLR not used in connection with loan losses paid to third party lenders or secondary market investors must be used by or at the direction of the grantee and for an eligible use under the EECBG Program, including capitalization of a RLF; and
- d) under no circumstances shall EECBG funds be released to a third party lender or secondary market investor for any purpose not pertaining to LLRs.

#### **Interest Rate Buy-Downs**

EECBG funds may be used for interest rate buy-downs subject to the conditions identified in this section. An interest rate buy-down is when one party (*e.g.*, grantee) provides a lump-sum payment based on the net present value of the difference between a target return to the lender or loan investor and the borrower's interest rate. This has two

primary purposes: (1) increase project affordability and demand by reducing monthly payments; and (2) maintaining or increasing lender / investor interest in making loans by yielding higher returns.

In order to ensure that a use of EECBG funds for interest rate buy-downs furthers the stated purposes of EECBG, the loans supported by the interest rate buy-downs must be for the purchase and installation of energy efficiency and renewable energy measures consistent with the EECBG statute.

#### **Third Party Loan Insurance**

EECBG funds may be used for the purchase of third party loan insurance subject to the conditions identified in this section. Third party loan insurance is a financial arrangement whereby a third party bears some portion (or all) of a loss on a specific portfolio.

This typically takes the form of a lender or investor purchasing an insurance policy from a third party against losses on a portfolio of loans up to a fixed percentage (the stop loss) of the sum of all the original loan amounts. The maximum insurance payout is determined by the value of the portfolio and not the value of individual loans.

In order to ensure that a use of EECBG funds for third party loan insurance furthers the stated purposes of EECBG, the loans supported by the third party loan insurance must be for the purchase and installation of energy efficiency and renewable energy measures consistent with the EECBG statute.

#### **Obligation, Drawing Down and Expenditure of Funds**

All EECBG Recovery Act funds must be expended by the project period end date specified in the award agreement terms and conditions.

#### **Revolving loan funds**

##### ***Obligation***

Program monies advanced for a RLF are considered obligated by the grantee once they have been used to capitalize a RLF. A RLF may be capitalized in any of the following circumstances:

- a) Receipt of a loan application from potential borrowers;
- b) State or local requirements (regulatory, statutory, or constitutional) dictate that funds be available in advance;
- c) The distribution account is operated by a third party; or
- d) If a grantee establishes and operates a RLF, funds would be considered obligated by the grantee upon submitting a letter to the Project Officer and receiving a confirmation response from the Project Officer. The letter must: (1) provide the strategy for the RLF and (2) identify the scope and size of the loan.

##### ***Draw Down***

For grantees receiving payments through the Department of the Treasury's Automated Standard Application for Payments (ASAP) system, funds may be drawn down at the



time funds are obligated to the RLF. If a grantee required draw down under requirements "b" or "c" listed above, the grantee should document the relevant requirement and provide that documentation to their Project Officer.

For grantees receiving payments by submission of SF-270 – Request for Reimbursement or Advance, the SF-270 may be submitted at the time funds are obligated to the RLF. The SF-270 should include all documentation required for "b" or "c" above.

#### *Expenditure*

##### **Self-administered:**

Funds are considered fully expended (outlaid) when the RLF has loaned to specific borrowers for an amount equal to or greater than the EECBG funds that initially capitalized the fund. The value of loans issued in any reporting quarter is to be reported as expenditures (outlays) for that quarter.

##### **Third party- administered:**

For revolving loan funds administered by a third party, grantee funds are considered expended (outlaid) when the funds have been transferred to the third party for operation of the RLF. Funds transferred to a third party administrator in any reporting quarter are to be reported as expenditures (outlays) for that quarter.

If a RLF is administered by the grantee, all funds *must*:

- Be loaned out (initial round of funding) within the timeframe specified for the expenditure of funds set forth in the terms and conditions of the award agreement;
- Be converted for use to an approved program activity after submitting and finalizing an amendment through the DOE Project Officer and Contracting Officer; or
- Be returned to the Federal government.

If a RLF is administered by a third party (subgrantee or vendor), all funds *should*:

- Be loaned to specific borrowers (initial round of funding) within the timeframe specified for the expenditure of funds set forth in the terms and conditions of the award agreement;
- Be converted for use of approved program activities after submitting and finalizing an amendment through the DOE Project Officer and Contracting Officer; or
- Be returned to the Federal government.

Regardless of whether a RLF is administered by a grantee, subgrantee, or vendor, if the RLF does not loan out funds for eligible activities under the program, DOE may take enforcement action against the grantee and/or subgrantee, subject to the flow down provisions of the subagreement, for noncompliance with the terms of the award agreement and disallow all or part of the cost of the activity or action not in compliance, or invoke other allowable remedies against the grantee/or subgrantee (subject to the flow down provisions of the subagreement). See 10 CFR 600.243.

Loan loss reserves

*Obligation*

LLR funds are considered obligated when they are committed as a credit enhancement to support a loan or portfolio of qualifying loans under the EECBG guidelines.

For LLRs supporting a new or existing Recovery Act or non-Recovery Act funded financing program operated by the grantee, LLR funds are considered obligated by sending a letter to the Project Officer indicating the establishment of the loan loss reserve.

For LLRs supporting third party loans, LLR funds are considered obligated when the grantee enters into a signed agreement with the third party.

*Draw Down*

For grantees receiving payments through the Department of the Treasury's Automated Standard Application for Payments (ASAP) system, funds may be drawn down at the time funds are obligated to the LLR.

For grantees receiving payments by submission of SF-270 – Request for Reimbursement or Advance, the SF-270 may be submitted at the time funds are obligated to the LLR. The SF-270 should include all associated obligation documentation (e.g., letter to the Project Officer or copy of the signed third party agreement).

*Expenditure*

Self-administered: LLR funds are considered expended after they have met the above requirements for obligation, the grantee has drawn funds down from the ASAP system to fund the loan loss reserve account and committed them to support (a) individual loans; or (b) a portfolio of loans that a third party commits to issue. The value of funds committed to support loans in any reporting quarter is to be reported as expenditures (outlays) for that quarter.

Third party-administered: For LLR funds operated by a third party, the grantee's funds are considered expended when the funds have been transferred to the third party for operation of the fund. The value of funds transferred to the third party for operation of the LLR in any reporting quarter is to be reported as expenditures (outlays) for that quarter.

Interest rate buy-downs and third party loan insurance

*Obligation*

Funds used for an interest rate buy-down or third party loan insurance are considered obligated by the grantee once the funds have been committed to an interest rate buy-down or third party loan insurance, in support of a loan or loan program. These funds may be committed in any of the following ways:

- a) Receipt of a loan application from potential borrowers;
- b) Where state or local requirements (regulatory, statutory or constitutional) dictate that funds be available in advance;

- c) When the grantee enters into a signed agreement with a third party to support an ongoing loan program with interest rate buy-downs or third party loan insurance;  
or
- d) The grantee has entered into an agreement with a third party to operate the distribution account.

#### *Draw Down*

For grantees receiving payments through the Department of the Treasury's Automated Standard Application for Payments (ASAP) system, funds may be drawn down at the time funds are obligated to the IRB or third party loan insurance. If a grantee required draw down under requirements "b" or "c" listed above, the grantee should document the relevant requirement and provide that documentation to their Project Officer.

For grantees receiving payments by submission of SF-270 – Request for Reimbursement or Advance, the SF-270 may be submitted at the time funds are obligated to the RLF. The SF-270 should include all documentation required for "b" or "c" above.

#### *Expenditure*

Interest rate buy-downs and third party loan insurance are considered expended after they have met the above requirements for obligation and the grantee has drawn funds down from the ASAP system to fund the buy-down or loan insurance account. Additional information regarding the character of interest rate buy-downs can be found in EECBG Program Notice 12-001, "Guidance for Energy Efficiency and Conservation Block Grant Grantees on Interest Rate Buy Down Programs" issued June 4, 2012.<sup>1</sup> This guidance (09-002D) does not supersede that guidance, and incorporates it as a reference.

#### **Loan Defaults**

Grantees are not required by DOE to replenish or replace any amounts which were lost to loan default. Loans involve risk by their very nature, so loss due to default of a borrower is an anticipated and allowable cost under an EECBG grant. Grantees should utilize prudent lending practices to minimize the risk of defaults.

#### **"Close Out" of Financing Programs**

Grantees may end or reduce funding for a RLF program, LLR program, or other eligible financing program at any time as long as any remaining funds are used by the grantee for an eligible purpose after submitting and finalizing an amendment through the Contracting Officer. (An amendment is only required if the grant is open at the time the grantee ends or reduces the funding for a RLF, LLR or other eligible financing program.) If the funds are not used for an eligible purpose, the funds must be returned to the Federal government.

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<sup>1</sup> [http://www1.eere.energy.gov/wip/pdfs/eeecbg\\_06-04-12.pdf](http://www1.eere.energy.gov/wip/pdfs/eeecbg_06-04-12.pdf)

**Interest Income from Advances**

*States*

Any interest earned on funds that have been drawn down but not expended (outlaid) by a State grantee is subject to the terms and conditions of its grant. See 31 CFR 205.15 and 205.25; 10 CFR 600.225(g). This interest earned may be rolled back into the RLF or LLR account or used for another approved, eligible activity. If such interest is not rolled back into the RLF or LLR, or used for another approved eligible activity, it must be returned to the Federal government.

*Units of Local Government and Tribes*

Any interest earned on funds that have been drawn down but not yet expended (outlaid) by an eligible unit of local government or Indian tribe is subject to 10 CFR 600.221 (i)<sup>2</sup>, which requires interest re-payment on the "advance" funds to be paid quarterly to DOE (with the exception of up to \$100 per year for administrative costs) based upon the interest rate specified by the Department of Treasury's Financial Management Service (<http://www.fms.treas.gov/cmia/interest-10.html>). However, once funds are loaned out, any interest earned is considered program income and is subject to the terms and conditions of the grant, as may be applicable. See 10 CFR 600.225(g).

**Program Income**

All program income (including interest earned) paid to grantees is subject to the terms and conditions of the grant. See 10 CFR 600.225 (g).

**Administrative expenses**

Under the EECBG Program, of the amounts provided under the EECBG program an eligible unit of local government or Indian tribe may use "an amount equal to the greater of 10% and \$75,000" for administrative expenses, excluding the cost of meeting reporting requirements (42 USC 17155 (b)(3)(A)) "A State may not use more than ten (10) percent of amounts provided under the program for administrative expenses" (42 USC 17155 (c)(4)).

The cap on the amount of funds that can be used for administrative expenses applies to the funds that the grantee received under the EECBG program, which for the purpose of the cap include principal repayments under an RLF. The cap does not apply to program income, including interest paid by borrowers under a RLF.

More information on the use of administrative expenses is available in EECBG Program Notice 11-002 "Clarification of Ten Percent Limitation on Use of Funds for Administrative Expenses" issued July 28, 2011.<sup>3</sup>

<sup>2</sup> 10 CFR 600.221(i) states "[u]nless there are statutory provisions to the contrary, grantees and subgrantees shall promptly, but at least quarterly, remit to the Federal agency interest earned on advances. The grantee or subgrantee may keep interest amounts up to \$100 per year for administrative expenses."

<sup>3</sup> [http://www1.eere.energy.gov/wip/pdfs/eeccb\\_11-002.pdf](http://www1.eere.energy.gov/wip/pdfs/eeccb_11-002.pdf)

**Continuing Federal Requirements Applicable to Financing Programs**

Funds used to capitalize a RLF or LLR retain their Federal character for the entire period of time that the funds are used for such purpose (i.e., at each revolution of funds). The Federal character is maintained even after the funds have been considered expended as described above. As a result, Federal requirements that apply to the funds such as program eligibility requirements, NEPA, and the National Historic Preservation Act (NHPA) would be applicable at each revolution of the RLF or when a grantee approves a third-party lender's request for coverage with LLR funds. Federal requirements that apply to Recovery Act funds, such as the Davis-Bacon Act (DBA) requirements, Buy-American provision requirements, and Recovery Act reporting requirements would be applicable at each revolution of a RLF or on any residual funds from a LLR expended for an eligible activity to close out the LLR.

The grantees who administer RLFs can expedite compliance with these statutory requirements as detailed below.

**National Environmental Policy Act**

*Interest rate buy downs and third party loan insurance*

Prior to the grantee approving the use of Federal funds by a third party lender, where the funds would support an interest-rate buy down or a loan insurance policy, DOE must conduct NEPA review for the project or group of projects that will benefit from the funds. In many cases this will be impractical because the grantee (and possibly third party administrators) may not be able to identify proposed projects until well after the grantee establishes the financing program. As such, the easiest and most practical way for DOE to comply with NEPA review is to make a categorical exclusion (CX) determination for the entire financing program by using the EECBG NEPA Template. IRBs and Third Party Loan Insurance may qualify for a CX to the NEPA provisions provided that the underlying projects to be funded under the financing program fall under the EECBG NEPA Template. Grantees should consult with their Project Officer for further information.

*Revolving loan funds*

RLF may qualify for a CX to the NEPA provisions provided that the underlying projects to be funded under the financing program fall under the EECBG NEPA Template. If the grantee uses the EECBG NEPA Template that DOE has provided to grantees to obtain CX determination under NEPA, then DOE can complete a NEPA review for the entire RLF portfolio without having to later conduct a NEPA review of individual projects.

*Loan loss reserves*

Recovery Act-funded LLRs can occur in three phases:

- (1) DOE expends Recovery Act funds that are used to establish and capitalize a grantee's LLR account;
- (2) a grantee approves an application from a third party lender requesting coverage from a LLR to support a loan or a portfolio of qualifying loans (in this case, commitment of a LLR); and

(3) a grantee draws funds from the LLR account to pay third parties for the financing of privately-funded projects, in the event of a loan default.

DOE does not need to complete a NEPA review in advance of phase (1) above. However, DOE must complete a NEPA review for any LLR activity prior to phase (2) above, at the latest. To that end, DOE must complete a NEPA review before the grantee commits funds to cover a third party's loans. While the requirements of DBA and the Buy American provision do not apply during phase (1), such requirements apply prior to phase (2) above.

For instances in which grantees intend to use EECBO funding for LLRs supporting underlying projects that do *not* qualify for a CX determination (e.g., large, commercial-scale geothermal or wind projects), DOE will typically have to complete a NEPA review for the individual proposed projects. At the time that a third party lender applies to the grantee for coverage from a LLR, the grantee must identify the project(s) that will receive the loan. DOE will then commence a NEPA review of such project(s), which will most likely result in an Environmental Assessment or Environmental Impact Statement. A grantee cannot approve third party loans for coverage under a LLR program until DOE completes a NEPA review for particular projects that benefit from the LLR. Should the grantee move forward with activities that are not authorized for Federal funding by the DOE Contracting Officer in advance of the final NEPA determination, the grantee is doing so at risk of not receiving Federal funding, and such costs may not be recognized as allowable cost share.

Even in those instances in which DOE must complete a NEPA review for individual projects that do not qualify for a CX determination, DOE may be able to expedite the NEPA review process by using a single NEPA document for multiple, similar projects. Also, if the total amount of Federal financial assistance (including Federal funding reserved for the loss on the loan) for a project is less than 10 percent of total project costs, then the grantee should consult with DOE about whether DOE will have to prepare a NEPA determination for the project.

In the case of LLRs that support projects that cannot obtain a CX determination, DOE encourages such grantees to submit a complete project description simultaneously with the third party lender application for a credit enhancement. Otherwise, DOE may condition its approval of the LLR on a NEPA review and that conditional approval may serve as an insufficient guarantee to the lender.

#### Categorical Exclusions

Grantees should consider restricting their financing programs to activities categorically excluded from NEPA review (e.g., including this restriction in any third party LLR contracts).

For further information about the EECBG NEPA Template, please review guidance that DOE has previously issued on streamlining compliance with NEPA. That guidance and the EECBG NEPA Template itself can be found at [http://www1.eere.energy.gov/wip/pdfs/ncpa\\_program\\_guidance\\_notice\\_10-003.pdf](http://www1.eere.energy.gov/wip/pdfs/ncpa_program_guidance_notice_10-003.pdf) and [http://www1.eere.energy.gov/wip/pdfs/eeecbg\\_recovery\\_act\\_program\\_guidance\\_10-011.pdf](http://www1.eere.energy.gov/wip/pdfs/eeecbg_recovery_act_program_guidance_10-011.pdf) (Attachment B), respectively.

Further, assuming that DOE exercises no control over projects that receive loans from a RLF, DOE *may* not have to prepare a NEPA determination for a project if the total amount of Federal funding for the project is less than 10 percent of project costs.

**Historic Preservation, DBA, and Buy American**

DOE has worked with the Advisory Council on Historic Preservation to provide States with programmatic agreements in order to streamline compliance with the NHPA requirements. Information on the programmatic agreements can be found at [http://www1.eere.energy.gov/wip/historic\\_preservation.html](http://www1.eere.energy.gov/wip/historic_preservation.html).

Individual homeowners receiving loans under a RLF program or supported by Recovery Act-funded credit enhancements (e.g., LLRs, IRBs, third party loan insurance) would not be required to comply with DBA. Grantees may wish to consider restricting their financing programs to activities for which compliance is not required under DBA.

Neither LLRs nor third party loan insurance are subject to DBA, because the funds are not being loaned/used for construction/installation work. Provided that the LLR fund is used only for the purposes of providing a fund for the third party lender in the event of default by the borrower, DBA is not applicable to the LLR fund.

Also, provided that the third party loan insurance is used only for the purpose of providing funding to a lender or investor for the purchase of an insurance policy from a third party against losses on a portfolio of loans up to a fixed percentage (to stop loss) of the sum of all the original loan amounts, DBA is not applicable to the third party loan insurance.

LLR funds are used to protect the third party lender in the event of default. The third party lender obtains reimbursement from a LLR fund only in the event of a default by the borrower, and only after legal efforts to obtain additional repayment from the borrower have been exhausted. Loan loss reserve funds are not used for the construction alteration, maintenance or repair of a public building or public work. Therefore, the DBA and Buy American provisions of the Recovery Act do not apply to LLR funds.

DBA is applicable to IRBs, except when a IRB supports a loan under which (1) an individual is hiring a contractor to work on their personal home/building; or (2) a State or Local Government employee performs the work on a state or local government building.

The Buy American provision requirements apply to "public buildings" and "public works" and thus would not be applicable to projects performed on homes owned by individuals.

**Continuing oversight of Federal funds**

As noted above, generally, Federal funds used to capitalize a RLF or fund a LLR continue to maintain their Federal character in perpetuity. For such programs, the Federal character continues after expenditure and after the initial period of award. As a result, Federal requirements that apply to the funds such as the NEPA, NHPA, DBA, Buy American provisions, and Recovery Act reporting requirements would be applicable at each revolution of the RLF, or when a grantee approves a third-party lender's request for coverage with loan loss reserve funds. To ensure that these Federal funds continue to be used in accordance with the applicable Federal requirements, DOE will maintain oversight of the funds remaining in financing programs past the period of performance stated in the grantee's award agreement.

Under the EECBG statute, grantees are required to provide an annual report on the status of development and implementation of the grantee's energy efficiency and conservation strategy, and as practicable, an assessment of the energy efficiency gains within the jurisdiction of the grantee. (42 USC 17155(b)(4) and (c)(5)). So long as a grantee continues to operate a RLF or LLR that was capitalized with Federal funds under EECBG, the grantee is required to provide an annual report on the status of its energy efficiency and conservation strategy.

Grantees are provided an opportunity to enter into no cost time extensions of the current award, limited in scope to only those RLF and LLR activities in which there remain Federal funds that were expended in a timely manner. A no cost extension would continue the reporting requirements under the award and facilitate the grantee providing information necessary for DOE oversight. The no cost time extension would not establish additional reporting requirements.

For further detail on the manner of reporting, see the most recent guidance in EECBG Program Notice Series 10-07, "DOE Reporting Requirements for the Energy Efficiency and Conservation Block Grant Program" and its appendix, which outlines the metrics grantees will be asked to report on with respect to financing programs.

Absent a no cost time extension, DOE will maintain oversight of the grantee through the audit process. Per 10 CFR 600.242(e)(1), DOE has the right of access to any pertinent books, documents, papers, or other records of the grantees or subgrantees that are pertinent to the grant, in order to make audits, examinations, excerpts and transcripts. An audit will be conducted as frequently as DOE deems necessary to ensure grantees are following all Federal requirements, including but not limited to Recovery Act requirements and statutory reporting requirements. See 10 CFR 600.242(e)(1).

A grantee may choose to end a RLF or LLR. A grantee may move funds out of a RLF or LLR as the funds are returned to the grantee (e.g., as loan payments are made).



If the grantee ends such a program, the funds must be used for an eligible purpose or be returned to the Federal government. After the close of the Recovery Act award period, grantees with funds remaining in financing programs will be required to report information on the program until the funds are either: (1) rolled into another eligible activity and expended; (2) fully expended through default; or (3) returned to the Federal Government.

#### **Repurposing Federal Funds**

Recipients may request to repurpose the remaining funds in their Financing Program towards another eligible EECBG activity. Use of remaining funds for another eligible activity after the end of the period of performance requires the Recipient to request approval from DOE at EECBG@ee.doe.gov prior to taking any action. DOE will accept repurposing requests twice a year from Jan 1-31 and from July 1-31. In emergency situations Grantees may submit a request to the email inbox at EECBG@ee.doe.gov with a statement of why it is necessary to request repurposing review outside the timeframes listed above. It is up to the discretion of the DOE Program Manager on whether to approve the request.

If a repurposing request will deplete the loan program completely, thus effectively ending the program, this must be noted in the request. If there are outstanding loans, a repayment schedule with the end date for the last repayment must be provided. The Recipient should include the following information in their email request:

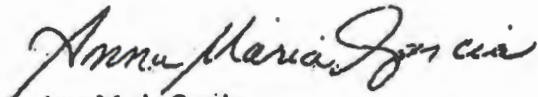
1. In the subject line: Request to Repurpose Federal EECBG Financing Program Funds: Location, State (Grant Number);
2. In the email body:
  - a. The planned start date;
  - b. Description of the eligible EECBG activity and project to which the funds are to be repurposed;
  - c. A complete accounting of all funds up to the planned repurposing start date;
  - d. Confirmation that the repurposing project complies with all relevant requirements (ARRA, NEPA, DBA, BA, Historic Preservation, etc.); and
  - e. The activity or project planned beginning and ending dates for the repurposed funds.

**DOE will evaluate the request and endeavor to provide a written response of approval or rejection within 30 days of receiving all the requested information.**

#### **Grantee Reporting of Financial Programs**

Following close of the Recovery Act award period, DOE will require reporting to confirm the funds are being used in accordance with their federal character. After the close of the Recovery Act award period, grantees with funds remaining in financing programs will be required to report information on the program until the funds are either: (1) rolled into another eligible activity and expended; or (2) fully expended through default; or (3) returned to the Federal government.

Pursuant to Section 210(c) of OMB Circular A-133, third party lenders should generally be characterized as vendors providing financial services. As such, third party lenders (e.g., commercial banks) are not required to report any information directly to DOE. Prime grantees retain reporting authority and responsibility and therefore should not delegate any reporting responsibility to third party lenders.



AnnaMaria Garcia  
Program Manager  
Weatherization and Intergovernmental Program  
Energy Efficiency and Renewable Energy



Department of Energy  
Washington, DC 20585

July 15, 2014

Dear EECBG Recipient,

*Re: EECBG Financing Programs*

This document clarifies DOE's ongoing role in the monitoring, reporting and oversight of Energy Efficiency & Conservation Grant (EECBG)-funded "Financing Programs". This includes Revolving Loan Funds (RLFs), Loan Loss Reserves (LLRs) and Interest Rate Buydowns (IRBs).

This letter uses the term "Recipient" to refer to entities that are executing a project funded by a DOE grant, award or loan. "Recipient" is generally interchangeable with the terms "awardee," "sub-awardee" and "sub-recipient."

Effective immediately, EECBG is moving from quarterly reporting to an annual reporting requirement for Recipients with Financing Programs. EECBG recently implemented the *EECBG Financing Program Annual Report Template* (OMB Control Number 1910-5150) (Appendix 1). Recipients are directed to submit this shorter, simpler annual reporting form electronically.

*Note: BOTH the initial Annual Report covering the period from October 1, 2012 to September 30, 2013 (FY2013) AND the Annual Report covering the period from October 1, 2013 (FY2014) through September 30, 2014 (FY2014) are due October 31, 2014.*

All subsequent Annual Reports will be due at the end of October for the previous fiscal year, so the FY2015 Annual Report covering the period from October 1, 2014 to September 30, 2015 will be due on October 31, 2015, etc.

DOE Project Officers will immediately begin working with Recipients on closeout of the remaining active grants. Recipients with *self-administered* financing programs that have not yet fully expended their funds must either move their funds to a third party for ongoing administration of their EECBG financing program, thereby expending the funds, or confirm their intent to deobligate the remaining funds and return them to Treasury.

*Note: This does not apply to Recipients with third-party-administered financing programs, as these programs are considered fully spent at the time the agreement for administration of the fund is executed.*

The most current EECBG guidance is included in the appendices that follow. This document is intended to amplify and clarify the responsibilities of Recipients pertaining to applicable Financing Programs.

*Note: As long as these Financing Programs exist, even if converted to other eligible activities, the originating funds retain their federal character and Recipients have a continuing responsibility to stay current and compliant with the most recent guidance, which may change.*

Current EECBG guidance is available at <http://energy.gov/eere/wipo/energy-efficiency-and-conservation-block-grant-program-guidance>. This document outlines how DOE intends to support Recipients in the effective administration and reporting of their Financing Programs. This document also contains Frequently Asked Questions (FAQs) (Appendix 12) and provides Recipients with information on how to obtain assistance.

If you have any questions, please contact [EECBQ@ee.doe.gov](mailto:EECBQ@ee.doe.gov).

I would like to take this opportunity to sincerely thank all of our Recipients for their incredible accomplishments in support of energy efficiency to date, and for their continued commitment to the support of clean energy projects through these Financing Programs. I wish you the best of luck in your future endeavors.

Best regards,



Ted Donat  
Program Manager  
Energy Efficiency & Conservation  
Block Grant Program



Sara Wilson  
Contracting Officer  
Financial Assistance Office  
Golden Service Center

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## I. Federal and Statutory Character of EECBG Funds

The Energy Independence & Security Act of 2007 (EISA) is the authorizing statute for the EECBG Program. EECBG funds originated from federal funds that are subject to federal reporting and compliance requirements. The reporting and compliance requirements described in this document and in applicable regulations apply even after the grant has been closed out and retired.

Eligible activities funded with EECBG dollars also retain federal reporting and compliance requirements. EECBG funds used in Financing Programs are subject to all of the reporting and compliance requirements that apply to the expenditure of EECBG Program funds.<sup>1</sup>

Program Notice 09-002D, revised October 17, 2012 (Appendix 2), provides information on the use of financing programs under the EECBG Program.

*Note: While authority for EECBG funds stems from the Energy Independence & Security Act of 2007 (EISA), EECBG funds were issued and implemented under the American Reinvestment and Recovery Act of 2009 (ARRA) and thus retain their ARRA character in perpetuity. Due to the revolving nature of RLFs, LLRs and IRBs created with EECBG funds, loans associated with these instruments are not subject to the limitation on the period of availability of ARRA funds (September 2015). Therefore, a loan or loan incentive made from the fund retains its ARRA character and remains subject to all the compliance requirements that apply to the expenditure of program funds.*

ARRA funds are subject to a number of special requirements including:

- Buy American (BA) provisions compliance;
- Davis-Bacon Act and Related Acts (DBA) compliance and reporting;
- Historic Preservation (HP) compliance and reporting; and
- National Environmental Policy Act (NEPA) compliance and reporting.<sup>2</sup>

Compliance with these special requirements is covered in detail below.

## II. Repurposing of Award Funds for another Permissible Purpose

Per the EECBG Financing Program Guidance (EECBG Program Notice 09-002D), Recipients may request to repurpose the remaining funds in their Financing Program towards another eligible EECBG

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<sup>1</sup> Note: If an EECBG Recipient establishes a Revolving Loan Fund (RLF), auditors are encouraged to include samples of the loans made from the RLF during the audit period. If an EECBG Recipient uses funds to offset loan defaults as Loan Loss Reserves (LLR), auditors are encouraged to include samples of funds to cover a third party's loans. Such financial transactions are subject to the same review as any other expenditure under the EECBG program.

<sup>2</sup> Note: Earlier this year Congress eliminated the 1512 Reporting requirement for ARRA award recipients by the enactment of the Omnibus Spending Bill on January 17, 2014.

activity. The terms and conditions of the EECBG award state that scope changes require a written amendment to the award and approval of the Contracting Officer. If the Recipient wishes to make a change *before* their award period of performance ends, the Recipient should contact their DOE Project Officer within ten business days after receipt of this letter.

DOE Project Officers will immediately begin working with Recipients on closeout of the remaining active grants. Recipients with *self-administered* financing programs that have not yet fully expended their funds must either move their funds to a third party for ongoing administration of their EECBG financing program, thereby expending the funds, or confirm their intent to deobligate the remaining funds and return them to Treasury.

*Note: This does not apply to Recipients with third-party-administered financing programs, as these programs are considered fully spent at the time the agreement for administration of the fund is executed.*

Use of remaining funds for another eligible activity *after* the end of the period of performance requires the Recipient to request approval from DOE at [EECBG@ee.doc.gov](mailto:EECBG@ee.doc.gov) at least 30 days prior to taking any action. The Recipient should include the following information in their email request:

1. In the subject line: Request to Repurpose Federal EECBG Financing Program Funds: Location, State (Grant Number);
2. In the email body:
  - a. The planned start date;
  - b. Description of the eligible EECBG activity and project to which the funds are to be repurposed;
  - c. A complete accounting of all funds up to the planned repurposing start date;
  - d. Confirmation that the repurposing project complies with all relevant requirements (ARRA, NEPA, DBA, BA, Historic Preservation, etc. (see below for further details); and
  - e. The activity or project planned beginning and ending dates for the repurposed funds.

DOE will evaluate the request and endeavor to provide a written response of approval or rejection within 30 days of receiving all the requested information.

If a Recipient wishes to repurpose funds to another eligible activity, DOE strongly encourages the Recipient to identify activities that meet the following conditions:

- Activities that are eligible under 42 U.S.C. 17154;
- Activities that are categorically excluded from further National Environmental Policy Act (NEPA) review (See Appendix 4 for a list of Categorical Exclusions);
- Activities that have limited potential to impact historic properties;
- Activities that can be completed expeditiously to ensure expenditure deadlines are met; and
- Activities that will not exceed the minimal administrative cost thresholds (see below for further details).



As explained in the Compliance Requirements section of this document, if the Recipient intends to add or modify an activity that did not previously receive a NEPA Categorical Exclusion (Cx), the Recipient is restricted from taking any action using federal funds prior to DOE providing a final NEPA determination. The Recipient should use caution in proposing or conducting any activity that would have an adverse environmental effect or limit the choice of reasonable alternatives pending final NEPA determination. The Recipient must report on its federally funded activities annually until the federal funds are expended or returned to the U.S. Treasury.

**Note:** If funds are expended or returned, the last annual report is due at the end of that fiscal year. For example, if a Recipient wishes to repurpose their RLF funds on February 1, 2017 to a building retrofit project, the Recipient must notify DOE by January 1, 2017 following the parameters outlined above. The Recipient must also file a final FY2017 Annual Report on October 31, 2017. If the project work extends beyond September 30, 2017, the Recipient must report on the remainder of the project in their FY2018 Annual Report on October 31, 2018, and continue to report until expending all funds or returning any remaining funds to the U.S. Treasury.

### III. Reporting Requirements

Recipients must submit several regular reports, even after their grant has been closed out and retired and for as long as the Recipient maintains use of federal funds. These include:

1. The *Financing Program Annual Report* (Appendix 1);
2. A semi-annual DBA report; and
3. An annual HP report.

In addition, Recipients must report when funds move from a Financing Program to another eligible activity. Details of each of the reporting requirements are described below.

#### Annual Reporting of RLFs and LLRs

EECBG recently implemented a shorter, simpler annual reporting form for Recipients to submit electronically. The *EECBG Financing Program Annual Report Template* (OMB Control Number 1910-5150) is in Appendix 1.

The FY2013 and FY2014 Annual Reports are due on October 31, 2014. Subsequent Annual Reports will be due on October 31<sup>st</sup> of each year and will cover the previous fiscal year. For example, the FY2014 report will be due on October 31, 2014, and will cover the period from October 1, 2013 to September 30, 2014.

The *EECBG Financing Program Annual Report Template* (Appendix 1) requests data on the following elements of your Financing Program(s):

#### Financial Metrics - Fund Balances

- Program income: income earned through interest, buybacks, and other activities;

- **Administrative costs:** federal and cost-share award funds used to support and maintain the Program;
- **Dollar value of write-offs/loan losses:** amount of lost and unrecoverable funds due to making or supporting loans;
- **Funds returned to the U.S. Treasury:** all funds returned to the U.S. Treasury in a partial or total closure of the program activity; and
- **Total program fund size:** fund size of your program, including funds currently loaned and funds not loaned as well as the composition of the funds (federal vs. other).

#### **Program Metrics - Fund Performance Measures**

- **Dollar value of loans made or incentivized:** cumulative total value over the life of the program and the change in that value in the year covered by this Annual Report;
- **Number of loans made or incentivized:** cumulative total value over the life of the program and the change in that value in the year covered by this annual report; interest rate on loans given or incentivized and the average interest rate charged on loans;
- **Average calendar days required to re-lend or recommit funds:** number of days repaid or recovered funds sit in the account before they are re-loaned or recommitted to supporting new loans and the average number of calendar days;
- **Number of write-offs/loan losses:** number of lost and unrecoverable fund amounts due to making or supporting discrete loans;
- **Number of jobs created or retained:** number of jobs created or retained by the program, including the administration of the loan and jobs created by the loans themselves;
- **Cost-share percentage of program funds:** percentage of program funds that are derived from cost-share required by the Award Agreement and the change in that percentage over the past year;
- **Additional cost metrics:** Additional cost-share required to administer the program – cost-share used to support and maintain the program beyond that required by the Award Agreement;
- **Process Metrics:** Underlying activities supported by the Financing Program (e.g., number of building retrofits, square footage retrofitted); and
- **Any additional information on program activities that amplifies accomplishments** within the last year, any issues regarding the program and their potential impact, plans for the program in the coming year, and insights into the data provided in the quantitative fields within the report.

The report will also enable Recipients to report on any funds moved to other eligible EECBG activities.

#### **How to Report:**

Recipients are required to submit the PDF *EECBG Financing Program Annual Report* (Appendix I) to the following e-mail address by the reporting deadline: [EECBG@ee.doe.gov](mailto:EECBG@ee.doe.gov).

**Note:** Recipients will not have access to PAGE after their grants have been retired. In the future, DOE may integrate this report into a web-based system. DOE will alert Recipients of any change in reporting requirements or methodology.

### **Davis-Bacon and Related Acts (DBA) Reporting**

EECBG Recipients must comply with Davis-Bacon and Related Acts (DBA) as a condition of spending EECBG federal funds. Among other DBA requirements, Recipients must report semi-annually to DOE regarding their oversight of DBA compliance and enforcement.

*Note: While RLFs and IRBs are subject to DBA, LLRs are not. If a Recipient has questions about DBA, they should first consult the attached guidance (*DBA Desk Guide* (Appendix 5); *DBA FAQs* (Appendix 12)). If more information is needed, Recipients should send an email inquiry to [EECBG@ee.doc.gov](mailto:EECBG@ee.doc.gov). Recipients who no longer have an open award are still required to report semi-annually on DBA enforcement activities as long as the RLF or IRB continues.*

#### **How to Report:**

Recipients should submit the attached *DBA Semi-Annual Report Form* (Appendix 6) to the [DBAEnforcementReports@hq.doe.gov](mailto:DBAEnforcementReports@hq.doe.gov) mailbox by the 21<sup>st</sup> April and the 21<sup>st</sup> October each year and copy the [EECBG@ee.doc.gov](mailto:EECBG@ee.doc.gov) mailbox.

### **Historic Preservation (HP) Reporting**

DOE must ensure that EECBG Recipients are compliant with Section 106 of the National Historic Preservation Act (NHPA), consistent with DOE's 2009 letter of Delegation of Authority regarding the NHPA. Recipients (including sub-recipients) are required to retain sufficient documentation to demonstrate they have received required approval(s) from the State or Tribal Historic Preservation Office (SHPO or THPO) for the Project, or that the activity will not adversely affect an historic structure or site.

*Note: All Recipients are required to report annually on Historic Preservation even after their award is closed.*

The Historic Preservation report is in Appendix 7. If a Recipient has questions about Historic Preservation, they should first check the *HP FAQs* (Appendix 12). If more information on Historic Preservation is needed, the Recipient should send an email inquiry to [EECBG@ee.doc.gov](mailto:EECBG@ee.doc.gov).

#### **How to Report:**

Recipients should submit the attached *Historic Preservation Form* (Appendix 7) to the [EECBG@ee.doc.gov](mailto:EECBG@ee.doc.gov) mailbox by October 31<sup>st</sup> of each year.

### **Discontinuation of Requirement to Report Jobs via [FederalReporting.gov](http://FederalReporting.gov)**

With the enactment of the Omnibus Spending bill, Congress ended the quarterly jobs reporting requirement for ARRA award Recipients. January 2014 was the last month in which Recipients had to report on the status of ARRA awards. The Office of Management and Budget no longer requires ARRA Recipients to report on direct jobs created or retained (in FTEs) to comply with Section 1512 of ARRA using the website [FederalReporting.gov](http://FederalReporting.gov).

**DOE Monitoring and Enforcement of Reporting Requirements / Right to Audit**  
Submission of the Annual Report is a statutory requirement of EISA. Submission of other reports is subject to agreements between DOE and cognizant Federal agencies. If DOE does not receive the required reports from Recipients by the established deadlines, DOE may take action, up to and including an expedited monitoring visit and/or notifying the DOE Office of the Inspector General (OIG) of the delinquency and requesting an audit or investigation (see 2 CFR 600.251).

As previously described, DOE has a responsibility to maintain oversight of EECBG funds for as long as the funds remain federal in nature. Per 10 CFR 600.242(e)(1), DOE has the right of access to any pertinent books, documents, papers, or other records of the Recipients (including that of sub-awardees) that are pertinent to the grant, in order to make audits, examinations, excerpts and transcripts. An audit may be conducted as frequently as DOE deems necessary to ensure that Recipients are following all federal requirements, including but not limited to ARRA requirements and statutory reporting requirements. See 10 CFR 600.242(e)(1). In addition, Recipients may continue to be subject to A-133 audit requirements.

*Note: Movement of RLF funds and/or LLR funds is considered material towards the \$500,000 threshold of federal funds for A-133 audits. (Effective January 1, 2015, the threshold changes to \$750,000.)*

Recipients may also be subject to other financial audit requirements (e.g., state, county, city, etc.).

#### **IV. Compliance Requirements**

##### **Maintaining a Point of Contact**

The Recipient is responsible for updating DOE regarding any changes in the point of contact for reporting and compliance. Recipients must notify DOE at [EECBG@ce.doe.gov](mailto:EECBG@ce.doe.gov) within 30 days of any changes to the point of contact and provide updated contact information.

##### **Buy American**

Funds utilized for projects in Public Buildings or Public Works are subject to the Buy American Provisions. These Provisions require that all "iron, steel, and manufactured goods incorporated into a public building or public work" be manufactured in the United States (See 2 CFR § 176.140(a)(1)). This includes funds supported by RLFs, LLRs, IRBs and/or any federal funds utilized for the purposes of improvements to a public building or public works. If a Recipient has questions about the Buy American provisions, they should first consult the *Buy American Desk Guide* (Appendix 7). If the Recipient has further questions, they should direct them to [EECBG@ce.doe.gov](mailto:EECBG@ce.doe.gov).

### **National Environmental Policy Act**

The Recipient is responsible for continuing to report to DOE any instance wherein DOE may need to undertake a NEPA project. If the Recipient intends to add to or modify activities that have not previously received a Categorical Exclusion (Cx), the Recipient is restricted from taking any action using federal funds that would have an adverse effect on the environment or limit the choice of reasonable alternatives, prior to DOE providing a final NEPA determination. A Financing Program may qualify for a Cx to the NEPA provisions if the underlying projects to be funded fall under the EECBG NEPA Template. If the Recipient used the DOE provided EECBG NEPA Template to obtain a Cx determination, then DOE can complete a NEPA review for the entire Financing Program portfolio without having to conduct a later NEPA review of individual projects. However, if the Financing Program portfolio changes, or if it is redirected for a purpose not stated in the Template, the Recipient is responsible to report to DOE that change at least 30 days prior to the change. The Recipient may be responsible for completing an amended EECBG NEPA Template and awaiting DOE's performance of a Cx determination or a NEPA review.

DOE must complete a NEPA review for any LLR activity before the Recipient commits funds to cover a third party's loans. Recipients continue to be responsible for completing the EECBG NEPA Template and awaiting DOE's performance of a Cx determination or completion of a NEPA review before proceeding. See the *EECBG NEPA Template* (Appendix 3).

Should the Recipient elect to undertake activities prior to DOE's completion of a NEPA determination (if applicable), DOE may disallow costs for those activities and may refer the matter for audit by the Inspector General and/or the cognizant audit agency.

If a Recipient has questions about the NEPA process, or wishes to submit a NEPA template, they should contact [EECBG@ec.doe.gov](mailto:EECBG@ec.doe.gov).

### **Davis-Bacon Act**

As stated in the EECBG Financing Program Guidance (EECBG Program Notice 09-002D), individual homeowners receiving loans supported by a Financing Program are not required to comply with DBA. Further, LLRs and third party loan insurance are not subject to DBA, because the funds are not being loaned or used for construction or installation work. If the LLR is used only for the purposes of providing a fund for the third party lender in the event of default by the borrower, DBA is not applicable to the LLR fund. However, if an RLF is used to lend funds to a commercial entity or a public entity, DBA may apply. In addition, if the funds supporting the RLF, LLR or IRB are utilized for another eligible EECBG activity, DBA may apply. (For more information, see the *DBA Desk Guide* (Appendix 5).) If a Recipient has further questions about the applicability of DBA to their financing programs, they should contact [EECBG@ec.doe.gov](mailto:EECBG@ec.doe.gov).

### **Administrative Funds**

Under the EECBG Program, an eligible unit of local government or an Indian tribe may use "an amount equal to the greater of 10% or \$75,000" for administrative expenses, excluding the cost of meeting reporting (42 USC 17155(b)(3)(A)). "A State may not use more than ten (10) percent of program funds for administrative expenses" (42 USC 17155(c)(4)).

Recipients may apply this 10% limit to internal and contracted administrative expenses to a third party. In the case where a sub-award is used towards the administration of a Recipient's prime award, the administrative expenses must be counted towards the 10% limitation. When a Recipient provides a sub-award, administrative expenses may be accrued by the sub-awardee beyond the 10% limit. However, DOE recommends that Recipients stay within the 10% limit for sub-awardee administrative funds. See *EECBG Program Notice 11-002* (Appendix 8) for further details.

The cap on funds that can be used for administrative expenses applies to the funds that the Recipient received under the EECBG program, which include principal repayments under an RLF. The cap does not apply to program income, including interest paid by borrowers under an RLF. See *EECBG Program Notice 9-002D* (Appendix 2) for further details.

### **Interest Earned**

Because the funds in an RLF, LLR or IRB housed with a third party institution (e.g., a bank or credit union) are considered "fully expended," the interest earned may be recapitalized into the fund, or used for another permissible purpose under the original grant agreement. The interest remains subject to the same requirements as the original funds. See 10 C.F.R. § 600.122, 10 C.F.R. § 600.221, and *EECBG Program Notice 13-001* (Appendix 9).

### **Return of Funds to Treasury**

It is preferred that a Recipient return funds to the U.S. Treasury using the Automated Standard Application for Payments (ASAP) to ensure the repayment is captured in the Award's ASAP records. A Recipient can maintain their ASAP account even after the grant has retired. EECBG Financing Program Recipients are encouraged to keep their ASAP accounts open. Instructions for returning funds to ASAP are in Appendix 11.

## **V. Appendices/Attachments**

**Appendix 1:** EECBG Financing Program Annual Report

**Appendix 2:** EECBG Program Notice 09-002D "Guidance for Energy Efficiency and Conservation Block Grant Grantees on Financing Programs" revised October 17, 2012

**Appendix 3:** EECBG NEPA Template

**Appendix 4:** NEPA Categorical Exclusions (Cx)

**Appendix 5:** Davis-Bacon Act (DBA) Desk Guide

**Appendix 6:** Davis Bacon Semi-Annual Report Form

**Appendix 7:** Historic Preservation Report

**Appendix 8:** Buy American Desk Guide

**Appendix 9:** EECBG 11-002 "Clarification of Ten Percent Limitation on Use of Funds for Administrative Expenses" effective July 28, 2011

**Appendix 10:** SEP and EECBG 13-001 "Guidance for Returning Interest Earned" Effective March 21, 2013

**Appendix 11:** Instructions for Returning Funds to ASAP

**Appendix 12: Frequently Asked Questions**

**Appendix 13: EECBG 11-001 Guidance on Basic Best Practices in Management of Energy Performance in Buildings, effective January 21, 2011**

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**Appendix 15: EECBG 10-011 Recovery Act Formula Grant Guidance, effective April 21, 2010**

**Appendix 16: EECBG 10-014 Guidance for EECBG Recipients on Procurement, effective June 23, 2010**

**Appendix 17: EECBG 10-021 Guidance for Eligibility of Activities, effective January 4, 2011**

## Appendix 12: Frequently Asked Questions

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**Q1: If a Recipient's grant is closed out, do they have to continue to report?**

**A1: Yes.** As long as the funds remain in a Financing Program, they retain their federal character, and the Recipient must continue to report.

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**Q2: A Recipient determines that there is no longer demand for their residential RLF for energy efficiency upgrades. The Recipient would like to repurpose the funds for an energy audit and lighting upgrade of City Hall. What are the responsibilities of the Recipient?**

**A2: The Recipient must first perform an eligibility assessment to ensure that this is a permissible purpose under the terms and conditions of the award; and is an eligible EECBG activity. If the Recipient is unsure, they can reach out to DOE at [EECBG@ee.doe.gov](mailto:EECBG@ee.doe.gov) for guidance. If the activity is determined to be eligible under EECBG, the Recipient must then report to DOE their intention to repurpose the funds towards another eligible activity within 30 days of the action at [EECBG@ee.doe.gov](mailto:EECBG@ee.doe.gov). If applicable, the Recipient should complete an EECBG NEPA worksheet to ensure that the project is covered by the Cx at [EECBG@ee.doe.gov](mailto:EECBG@ee.doe.gov). Like all EECBG projects, the project will be subject to Buy American, Davis-Bacon and Historic Preservation requirements. As such, the Recipient must retain documentation sufficient to document compliance with these requirements for audit purposes. The Recipient must also continue to report on the utilization of award funds until they are fully expended and/or returned to the U.S. Treasury.**

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**Q3: A Recipient determines that there is no longer demand for their residential RLF for energy efficiency upgrades, and would like to repurpose the funds. For what activities can the Recipient use the funds?**

**A3: The Recipient may utilize the funds for any eligible EECBG activity. If the Recipient is unsure whether an activity is eligible, they can reach out to DOE at [EECBG@ee.doe.gov](mailto:EECBG@ee.doe.gov) for guidance.**

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**Q4: A Recipient has repurposed the funds to a building retrofit (or other eligible non-revolving activity). How long do they have to report?**

**A4: The Recipient must report until the funds are fully expended. For example: if the Recipient begins the retrofit in September 2015 and completes it in November 2015 fully utilizing all of the funds they had initially for a Financing Program; the Recipient must complete an Annual Report & Historic**



*Preservation Report for Oct 1, 2014-Sept 30, 2015 and Oct 1, 2015-Sept 30, 2016 and DBA Reports April 21, 2015; Oct 21, 2015 and April 21, 2016.*

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**Q5: A Recipient wants to give the remainder of the money back. How do they do that?**

**A5:** The Recipient should contact [EECBG@ce.doe.gov](mailto:EECBG@ce.doe.gov). A DOE employee will contact you to walk you through the process of returning the funds to the U.S. Treasury.

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**Q6: A Recipient has spent all of their funds and wants to close out. How do they do that?**

**A6:** The Recipient should contact [EECBG@ce.doe.gov](mailto:EECBG@ce.doe.gov). If the award has passed the end of its project period of performance, the Financial Assistance agreement may have been formally closed out in FedConnect by the DOE procurement office. For Recipients who continued to conduct financing programs after the project end date, certain completion requirements still apply when the programs conclude. A DOE employee will contact you to walk you through the process of submitting final documentation to DOE. You will be required to submit a final Annual Report, and you should be prepared to provide documentation of all expenditures and any remaining funds.

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**Q7. A Recipient wants to transfer responsibility for ongoing EECBG Financing Programs to another entity. Is this allowed?**

**A7.** For recipients of the EECBG Formula awards, any other entity assuming responsibility for a Financing Program must have been an eligible entity/direct recipient under the original EECBG formula allocation. For competitive EECBG recipients selected under DE-FOA-0000148, any entity assuming responsibility for a Financing Program must have been an eligible entity under the FOA Topic under which the original award and selection was made (For example, if the original awardee was selected under FOA Topic 2 (General Innovation Competitive Grants), the transferee must also have been an eligible entity as stipulated under Topic 2). As stated in Section V, above, "Maintaining Point of Contact," any change in point of contact must be reported to DOE.

*Note: The original award recipient is ultimately responsible for reporting and compliance regardless of any subsequent transfers.*

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**Q8: Where can a Recipient find guidance on the National Environmental Policy Act?**

**A8:** In addition to the information provided in the letter above, the Recipient should review the guidance in Appendices 3 and 4. If the Recipient needs further assistance, they should reach out to DOE at [EFCBG@ee.doe.gov](mailto:EFCBG@ee.doe.gov) for guidance.

**Q9: Where can a Recipient find guidance on the Davis Bacon Act?**

**A9:** In addition to the information provided in the letter above, the Recipient should review the guidance in Appendices 5 and 6. If the Recipient needs further assistance, they should reach out to DOE at [EFCBG@ee.doe.gov](mailto:EFCBG@ee.doe.gov) for guidance.

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**Q10: Where does a Recipient find guidance on the Historic Preservation Act?**

**A10:** In addition to the information provided in this letter, the Recipient should review the guidance in Appendix 7, and the guidance of the Office of General Counsel at <http://energy.gov/gc/action-center-office-general-counsel/faqs-related-recovery-act/historic-preservation>. If the Recipient needs further assistance, they should reach out to DOE at [EFCBG@ee.doe.gov](mailto:EFCBG@ee.doe.gov) for guidance.

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**Q11: Where can a Recipient find guidance on the Buy American Provisions?**

**A11:** In addition to the information provided in the letter above, the Recipient should review the guidance at Appendix 8. If the Recipient needs further assistance, they should reach out to DOE at [EFCBG@ee.doe.gov](mailto:EFCBG@ee.doe.gov) for guidance.

**State of New Hampshire  
Department of State**

**CERTIFICATE**

I, William M. Gardner, Secretary of State of the State of New Hampshire, do hereby certify that **COMMUNITY DEVELOPMENT FINANCE AUTHORITY** a New Hampshire State Chartered (Legislative) formed to transact business in New Hampshire on July 01, 1983. I further certify that it has paid the fees required by law and has not dissolved.

Business ID: 81003



IN TESTIMONY WHEREOF,

I hereto set my hand and cause to be affixed  
the Seal of the State of New Hampshire,  
this 22nd day of November A.D. 2016.

A handwritten signature in cursive script, appearing to read "Wm Gardner".

William M. Gardner  
Secretary of State

## CERTIFICATE

I, Robert Tourigny, Chair of the Community Development Finance Authority do hereby certify that: (1) I am the duly elected and acting Chair of the Community Development Finance Authority, a New Hampshire non-profit corporation and public authority ("The Corporation"); I am familiar with the minute books of the Corporation (3) I am duly authorized to issue certificates with respect to the contents of such books; (4) the following are true, accurate and complete copies of the resolutions adopted by the Board of Directors of the Corporation at a meeting of the said Board of Directors held on the 13<sup>th</sup> day of September, 2016, which meeting was duly held in accordance with New Hampshire law and the by-laws of the Corporation.

**Resolved:** That this Corporation authorize Executive Director, Taylor Caswell, on behalf of this Corporation, to take any and all such actions and to execute, acknowledge and deliver for and on behalf of this Corporation any and all documents, agreements and other instruments (and any amendments, revisions or modifications thereto) as he may deem necessary, desirable or appropriate, in the negotiation and execution of any and all contractual obligations and letter agreements;

**Resolved:** That the signature of the Executive Director of this Corporation affixed to any instrument or document described in or contemplated by these resolutions shall be conclusive evidence of the authority of said officer to bind this Corporation thereby;

**Resolved:** That in the absence of the Executive Director, the Chief Financial Officer, Thaddeus Kuchinski, is authorized to execute on behalf of the Corporation any and all checks for payment of obligations of the Corporation and that the signature of said Chief Financial Officer affixed to any such check shall be conclusive evidence of the authority of said officer to bind this Corporation thereby;

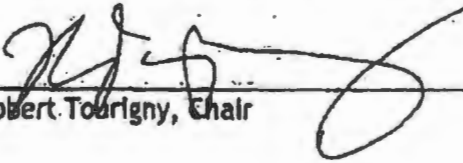
**Resolved:** That the Corporation shall be bound by any decision made by a State of New Hampshire court, or any agreement entered into by the individuals authorized above.

(5) the foregoing resolutions have not been revoked, annulled, or amended in any manner whatsoever, and remain in full force and in effect as of the date hereof:

(6) the following person(s) have been duly appointed to and now occupy the Office(s) indicated below:

Taylor Caswell, Executive Director  
Thaddeus Kuchinski, Chief Financial Officer

IN WITNESS WHEREOF, I have hereunto set my hand as the Chairman of the Corporation this 6th day of December, 2016.

  
Robert Tourigny, Chair

STATE OF NEW HAMPSHIRE  
County of MERRIMACK

On this the 6th day of December, 2016 before me, the undersigned officer, personally appeared Robert Tourigny, who acknowledged himself to be the Chair of the Community Development Finance Authority, a non-profit corporation, and that he as such Chair being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the organization by himself as Chair.

In witness whereof I hereunto set my hand and official seal.



My commission expires:

DIANE JEAN BREWSTER  
Notary Public  
State of New Hampshire  
My Commission Expires  
August 8, 2017

\_\_\_\_\_  
Notary Public (Seal)





NEWHAMP-03

MDEMICK

# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
11/21/2016

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. IF SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> A. B. Gile, Inc. PO Box 66 Hanover, NH 03755	<b>CONTACT NAME:</b> PHONE (AC, No, Ext): (603) 643-4540      FAX (AC, No): (603) 643-6382 E-MAIL ADDRESS:	
	<b>INSURER(S) AFFORDING COVERAGE</b> NAIC #	
<b>INSURED</b> New Hampshire Community Development Finance Authority 14 Dixon Ave Suite 102 Concord, NH 03301	<b>INSURER A:</b> Liberty Mutual Insurance	
	<b>INSURER B:</b>	
	<b>INSURER C:</b>	
	<b>INSURER D:</b>	
	<b>INSURER E:</b>	
	<b>INSURER F:</b>	

**COVERAGES**      **CERTIFICATE NUMBER:**      **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	INSUR YR	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GENL AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROTECT <input type="checkbox"/> LOC <input type="checkbox"/> OTHER:			CBP8159008	05/26/2016	05/26/2017	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Per occurrence) \$ 250,000 MED EXP (Any and all) \$ 5,000 PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMPROP AGG \$ 2,000,000 \$
A	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> MIXED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY			CBP8159008	05/26/2016	05/26/2017	COMBINED SINGLE LIMIT (Per occurrence) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 10,000			CU8152910	05/26/2016	05/26/2017	EACH OCCURRENCE \$ 3,000,000 AGGREGATE \$ 3,000,000 \$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/OWNER EXCLUDED? <input checked="" type="checkbox"/> Y <input type="checkbox"/> N If yes, describe under DESCRIPTION OF OPERATIONS below		N/A	WCS-31S610664-016	05/26/2016	05/26/2017	PER STATUTE    OTH-ER E.L. EACH ACCIDENT \$ 500,000 E.L. DISEASE - EA EMPLOYEE \$ 500,000 E.L. DISEASE - POLICY LIMIT \$ 500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)  
Workers Compensation Covered States - 3.A. Part One - NH; 3.C. Part Three - All States Except ND, OH, WA, WV, WY and States designated in Item 3.A.  
Excluded Officers- Michael Long, Robert Tourigny, Brian Hoffman

### EVIDENCE OF INSURANCE

### CERTIFICATE HOLDER

State of New Hampshire  
Office of Energy & Planning  
Johnson Hall, 3rd Floor  
107 Pleasant Street  
Concord, NH 03301

### CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE



MARGARET WOOD HASSAN  
GOVERNOR

STATE OF NEW HAMPSHIRE  
OFFICE OF ENERGY AND PLANNING  
107 Pleasant Street, Johnson Hall  
Concord, NH 03301-3834  
Telephone: (603) 271-2155  
Fax: (603) 271-2615



www.nh.gov/oep

Approval by the ...  
and Council on 12-23-14...  
Agenda Item 26

December 12, 2014

Her Excellency, Governor Margaret Wood Hassan  
and the Honorable Council  
State House  
Concord, NH 03301

**REQUESTED ACTION**

The Office of Energy and Planning (OEP) respectfully requests authorization to enter into a **SOLE SOURCE** contract with the Community Development Finance Authority (CDFA), (Vendor #177292), Concord, NH, to operate existing revolving loan funds and loan loss reserves which support a program known as Better Buildings under the terms of an American Recovery and Reinvestment Act – Energy Efficiency and Conservation Block Grant’s Retrofit Ramp-up Program (Retrofit Ramp-up) award to OEP from the Department of Energy, effective January 1, 2015 upon Governor and Executive Council approval through December 31, 2016. This contract enables CDFA to continue managing the loan funds and ensures continued compliance with federal funding restrictions and requirements.

**EXPLANATION**

Under this contract, CDFA agrees to continue to operate Better Buildings according to guidelines issued by the US Department of Energy through the Energy Efficiency and Conservation Block Grant Program for revolving loan funds. CDFA has managed the program since its creation under the authority of a contract between OEP and CDFA first approved by the Governor and Executive Council on July 14, 2010 (Item #9), and subsequently amended and approved by the Governor and Executive Council on April 3, 2013 (Item #6), July 24, 2013 (Item #1), and October 15, 2014 (Item #25). With \$10 million in original funding from the U.S. Department of Energy’s Better Buildings Neighborhood Program, the NH Better Buildings program initially provided funds to allow the three “Beacon Communities” of Berlin, Nashua and Plymouth to achieve transformative energy savings through deep energy retrofits and complementary sustainable energy projects. The program’s goal was to reduce energy use by at least 15% through energy efficiency upgrades in residential and commercial buildings. The program expanded statewide in April 2012 through a competitive commercial RFP and a partnership with the state’s utility administered, ratepayer funded Home Performance with ENERGY STAR® (HPwES) program. During the program, four financial products were established:

1. Better Buildings Residential Revolving Loan Fund (Residential RLF) – 0% on-bill financing through partnership with the state’s utility run Home Performance with ENERGY STAR® (HPwES) program
2. Better Buildings Residential Loan Loss Reserve (Residential LLR) – 50% loan loss reserve funds backing residential bank and credit union loans for energy efficiency
3. Better Buildings Commercial Revolving Loan Fund (Commercial RLF) – 2% - 4% co-lending agreements for commercial energy efficiency loans with local banks and credit unions
4. Better Buildings Commercial Loan Loss Reserve (Commercial LLR) – 50% loan loss reserve funds backing commercial bank and credit union loans for energy efficiency

Residential and commercial loan repayments and interest income accumulate in two Revolving Loan Funds (RLF) to be utilized for future loans. The two Loan Loss Reserves earn interest and are available to back additional loans once the aggregate outstanding loan principal is less than the amount of the reserve.

CDFA and its partners have loaned approximately \$3.1 million to 345 qualified New Hampshire businesses and residents to date under the program. CDFA will receive principal and interest payments on those loans for up to the next 25 years. Additional loans will be made with funds revolving back into the program as described in the accompanying contract exhibits.

This agreement will allow CDFA to continue to provide funding for cost effective energy efficiency projects undertaken by New Hampshire residents, businesses, and nonprofits, according to the terms and conditions accompanying the Federal award and additional Federal guidance governing the administration of the funds, and will allow for continued monitoring and reporting on the impact of such funds to US DOE. Funding for CDFA's management of the Better Buildings funds will come from program funds currently held by CDFA, and from any program income, as described in Exhibit B.

This contract is **SOLE SOURCE** because CDFA has successfully managed the Better Buildings program under the original ARRA-EECBG award from the US Department of Energy, and is uniquely suited to manage these public funds for the purposes of supporting energy efficiency investments in New Hampshire.

In the event that Better Buildings Federal program funds are no longer available, General Funds will not be requested to support this program.

Sincerely,



Meredith A. Hatfield  
Director

MAH/KPC  
Attachments



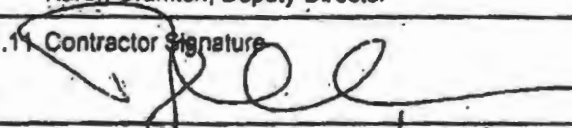
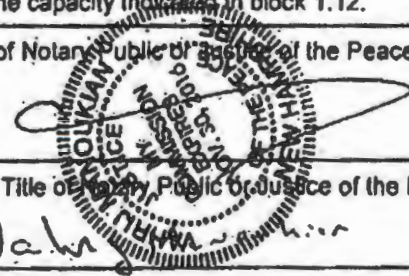
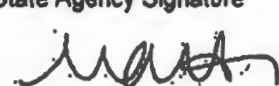
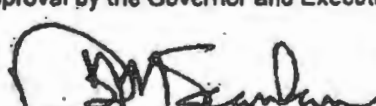
Subject: Community Development Finance Authority - Better Buildings - Revolving Loan Fund Administration

**AGREEMENT**

The State of New Hampshire and the Contractor hereby mutually agree as follows:

**GENERAL PROVISIONS**

**1. IDENTIFICATION.**

1.1 State Agency Name Office of Energy and Planning		1.2 State Agency Address 107 Pleasant St, Johnson Hall Concord, New Hampshire 03301	
1.3 Contractor Name Community Development Finance Authority		1.4 Contractor Address 14 Dixon Avenue, Suite 102, Concord NH 03301	
1.5 Contractor Phone No. 603-226-2170	1.6 Account Number N/A	1.7 Completion Date December 31, 2016	1.8 Price Limitation N/A
1.9 Contracting Officer for State Agency Karen Cramton, Deputy Director		1.10 State Agency Telephone Number (603) 271-2155	
1.11 Contractor Signature 		1.12 Name and Title of Contractor Signatory Taylor Gaswell, Executive Director	
1.13 Acknowledgment: State of <u>NEW HAMPSHIRE</u> County of <u>HILLSBOROUGH</u> On <u>12/15/14</u> , before the undersigned officer, personally appeared the person identified in block 1.12., or satisfactorily proven to be the person whose name is signed in block 1.11., and acknowledged that s/he executed this document in the capacity indicated in block 1.12.			
1.31 Signature of Notary Public of the Peace  [SEAL]			
1.13.2 Name and Title of Notary Public of the Peace <u>John J. Kelly</u>			
1.14 State Agency Signature 		1.15 Name and Title of State Agency Signatory Meredith A. Hatfield, Director Office of Energy and Planning	
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: _____ Director, On: _____			
1.17 Approval by Attorney General (Form, Substance and Execution) By: <u>Chitra Ali</u> On: <u>12/15/2014</u>			
1.18 Approval by the Governor and Executive Council By:  <b>DEPUTY SECRETARY OF STATE</b> <span style="float: right;">DEC 23 2014</span>			

**2. EMPLOYMENT OF CONTRACTOR/SERVICES TO BE PERFORMED.** The State of New Hampshire, acting through the agency identified in block 1.1 ("State"), engages contractor identified in block 1.3 ("Contractor") to perform, and the Contractor shall perform, the work or sale of goods, or both, identified and more particularly described in the attached EXHIBIT A which is incorporated herein by reference ("Services").

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

3.1 Notwithstanding any provision of this Agreement to the contrary, and subject to the approval of the Governor and Executive Council of the State of New Hampshire, this Agreement, and all obligations of the parties hereunder, shall not become effective until the date the Governor and Executive Council approve this Agreement ("Effective Date").  
3.2 If the Contractor commences the Services prior to the Effective Date, all Services performed by the Contractor prior to the Effective Date shall be performed at the sole risk of the Contractor, and in the event that this Agreement does not become effective, the State shall have no liability to the Contractor, including without limitation, any obligation to pay the Contractor for any costs incurred or Services performed. Contractor must complete all Services by the Completion Date specified in block 1.7.

**4. CONDITIONAL NATURE OF AGREEMENT.**

Notwithstanding any provision of this Agreement to the contrary, all obligations of the State hereunder, including, without limitation, the continuance of payments hereunder, are contingent upon the availability and continued appropriation of funds, and in no event shall the State be liable for any payments hereunder in excess of such available appropriated funds. In the event of a reduction or termination of appropriated funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate this Agreement immediately upon giving the Contractor notice of such termination. The State shall not be required to transfer funds from any other account to the Account identified in block 1.6 in the event funds in that Account are reduced or unavailable.

**5. CONTRACT PRICE/PRICE LIMITATION/ PAYMENT.**

5.1 The contract price, method of payment, and terms of payment are identified and more particularly described in EXHIBIT B which is incorporated herein by reference.  
5.2 The payment by the State of the contract price shall be the only and the complete reimbursement to the Contractor for all expenses, of whatever nature incurred by the Contractor in the performance hereof, and shall be the only and the complete compensation to the Contractor for the Services. The State shall have no liability to the Contractor other than the contract price.  
5.3 The State reserves the right to offset from any amounts otherwise payable to the Contractor under this Agreement those liquidated amounts required or permitted by N.H. RSA 80:7 through RSA 80:7-c or any other provision of law.  
5.4 Notwithstanding any provision in this Agreement to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments authorized, or actually made hereunder, exceed the Price Limitation set forth in block 1.8.

**6. COMPLIANCE BY CONTRACTOR WITH LAWS AND REGULATIONS/ EQUAL EMPLOYMENT OPPORTUNITY.**

6.1 In connection with the performance of the Services, the Contractor shall comply with all statutes, laws, regulations, and orders of federal, state, county or municipal authorities which impose any obligation or duty upon the Contractor, including, but not limited to, civil rights and equal opportunity laws. In addition, the Contractor shall comply with all applicable copyright laws.  
6.2 During the term of this Agreement, the Contractor shall not discriminate against employees or applicants for employment because of race, color, religion, creed, age, sex, handicap, sexual orientation, or national origin and will take affirmative action to prevent such discrimination.  
6.3 If this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all the provisions of Executive Order No. 11246 ("Equal Employment Opportunity"), as supplemented by the regulations of the United States Department of Labor (41 C.F.R. Part 60), and with any rules, regulations and guidelines as the State of New Hampshire or the United States issue to implement these regulations. The Contractor further agrees to permit the State or United States access to any of the Contractor's books, records and accounts for the purpose of ascertaining compliance with all rules, regulations and orders, and the covenants, terms and conditions of this Agreement.

**7. PERSONNEL.**

7.1 The Contractor shall at its own expense provide all personnel necessary to perform the Services. The Contractor warrants that all personnel engaged in the Services shall be qualified to perform the Services, and shall be properly licensed and otherwise authorized to do so under all applicable laws.  
7.2 Unless otherwise authorized in writing, during the term of this Agreement, and for a period of six (6) months after the Completion Date in block 1.7, the Contractor shall not hire, and shall not permit any subcontractor or other person, firm or corporation with whom it is engaged in a combined effort to perform the Services to hire, any person who is a State employee or official, who is materially involved in the procurement, administration or performance of this Agreement. This provision shall survive termination of this Agreement.  
7.3 The Contracting Officer specified in block 1.9, or his or her successor, shall be the State's representative. In the event of any dispute concerning the interpretation of this Agreement, the Contracting Officer's decision shall be final for the State.

**8. EVENT OF DEFAULT/REMEDIES.**

8.1 Any one or more of the following acts or omissions of the Contractor shall constitute an event of default hereunder ("Event of Default"):  
8.1.1 failure to perform the Services satisfactorily or on schedule;  
8.1.2 failure to submit any report required hereunder; and/or  
8.1.3 failure to perform any other covenant, term or condition of this Agreement.  
8.2 Upon the occurrence of any Event of Default, the State may take any one, or more, or all, of the following actions:  
8.2.1 give the Contractor a written notice specifying the Event of Default and requiring it to be remedied within, in the absence of a greater or lesser specification of time, thirty (30) days from the date of the notice; and if the Event of Default is not timely remedied, terminate this Agreement, effective two

(2) days after giving the Contractor notice of termination;  
8.2.2 give the Contractor a written notice specifying the Event of Default and suspending all payments to be made under this Agreement and ordering that the portion of the contract price which would otherwise accrue to the Contractor during the period from the date of such notice until such time as the State determines that the Contractor has cured the Event of Default shall never be paid to the Contractor;  
8.2.3 set off against any other obligations the State may owe to the Contractor any damages the State suffers by reason of any Event of Default; and/or  
8.2.4 treat the Agreement as breached and pursue any of its remedies at law or in equity, or both.

#### 9. DATA/ACCESS/CONFIDENTIALITY/PRESERVATION.

9.1 As used in this Agreement, the word "data" shall mean all information and things developed or obtained during the performance of, or acquired or developed by reason of, this Agreement, including, but not limited to, all studies, reports, files, formulae, surveys, maps, charts, sound recordings, video recordings, pictorial reproductions, drawings, analyses, graphic representations, computer programs, computer printouts, notes, letters, memoranda, papers, and documents, all whether finished or unfinished.

9.2 All data and any property which has been received from the State or purchased with funds provided for that purpose under this Agreement, shall be the property of the State, and shall be returned to the State upon demand or upon termination of this Agreement for any reason.

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

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

11. **CONTRACTOR'S RELATION TO THE STATE.** In the performance of this Agreement the Contractor is in all respects an independent contractor, and is neither an agent nor an employee of the State. Neither the Contractor nor any of its officers, employees, agents or members shall have authority to bind the State or receive any benefits, workers' compensation or other emoluments provided by the State to its employees.

12. **ASSIGNMENT/DELEGATION/SUBCONTRACTS.** The Contractor shall not assign, or otherwise transfer any interest in this Agreement without the prior written consent of the N.H. Department of Administrative Services. None of the Services shall be subcontracted by the Contractor without the prior written consent of the State.

13. **INDEMNIFICATION.** The Contractor shall defend, indemnify and hold harmless the State, its officers and employees, from and against any and all losses suffered by the State, its officers and employees, and any and all claims, liabilities or penalties asserted against the State, its officers and employees, by or on behalf of any person, on account of,

based or resulting from, arising out of (or which may be claimed to arise out of) the acts or omissions of the Contractor. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved to the State. This covenant in paragraph 13 shall survive the termination of this Agreement.

#### 14. INSURANCE.

14.1 The Contractor shall, at its sole expense, obtain and maintain in force, and shall require any subcontractor or assignee to obtain and maintain in force, the following insurance:

14.1.1 comprehensive general liability insurance against all claims of bodily injury, death or property damage, in amounts of not less than \$250,000 per claim and \$2,000,000 per occurrence; and

14.1.2 fire and extended coverage insurance covering all property subject to subparagraph 9.2 herein, in an amount not less than 80% of the whole replacement value of the property.

14.2 The policies described in subparagraph 14.1 herein shall be on policy forms and endorsements approved for use in the State of New Hampshire by the N.H. Department of Insurance, and issued by insurers licensed in the State of New Hampshire.

14.3 The Contractor shall furnish to the Contracting Officer identified in block 1.9, or his or her successor, a certificate(s) of insurance for all insurance required under this Agreement. Contractor shall also furnish to the Contracting Officer identified in block 1.9, or his or her successor, certificate(s) of insurance for all renewal(s) of insurance required under this Agreement no later than fifteen (15) days prior to the expiration date of each of the insurance policies. The certificate(s) of insurance and any renewals thereof shall be attached and are incorporated herein by reference. Each certificate(s) of insurance shall contain a clause requiring the insurer to endeavor to provide the Contracting Officer identified in block 1.9, or his or her successor, no less than ten (10) days prior written notice of cancellation or modification of the policy.

#### 15. WORKERS' COMPENSATION.

15.1 By signing this agreement, the Contractor agrees, certifies and warrants that the Contractor is in compliance with or exempt from, the requirements of N.H. RSA chapter 281-A ("Workers' Compensation").

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

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

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

**18. AMENDMENT.** This Agreement may be amended, waived or discharged only by an instrument in writing signed by the parties hereto and only after approval of such amendment, waiver or discharge by the Governor and Executive Council of the State of New Hampshire.

**19. CONSTRUCTION OF AGREEMENT AND TERMS.** This Agreement shall be construed in accordance with the laws of the State of New Hampshire, and is binding upon and inures to the benefit of the parties and their respective successors and assigns. The wording used in this Agreement is the wording chosen by the parties to express their mutual intent, and no rule of construction shall be applied against or in favor of any party.

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

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

**22. SPECIAL PROVISIONS.** Additional provisions set forth in the attached EXHIBIT C are incorporated herein by reference.

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

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



## Exhibit A – Scope of Services

### American Recovery and Reinvestment Act - Energy Efficiency and Conservation Block Grant Better Buildings Revolving Loan Fund and Loan Loss Reserve Management

#### 1. PROGRAM DESCRIPTION AND PURPOSE

This contract is between the State of New Hampshire, Office of Energy and Planning, Johnson Hall, 107 Pleasant Street, Concord, Merrimack County, New Hampshire 03301 (OEP) and the New Hampshire Community Development Finance Authority (CDFA), 14 Dixon Avenue, Suite 102, Concord, Merrimack County, New Hampshire, 03301.

With \$10 million in funding from the U.S. Department of Energy's Better Buildings Neighborhood Program, the NH Better Buildings program was established as an initiative that initially empowered the three diverse Beacon Communities of Berlin, Nashua and Plymouth to achieve transformative energy savings, and reductions in fossil fuel use and greenhouse gases through deep energy retrofits and complementary sustainable energy solutions. The program's goal was to reduce energy use by a minimum of 15% through energy efficiency upgrades in these communities' residential and commercial building sectors. The program expanded statewide in April 2012 through a competitive commercial RFP and a partnership with the state's utility run, rate-payer funded, Home Performance with ENERGY STAR® (HPwES) program. Four financial products were established with funds from the American Recovery and Reinvestment Act (ARRA) Energy Efficiency and Conservation Block Grant (EECBG) grant DE-EE-0003576, CFDA # 81.128, provided to OEP by the federal Department of Energy (DOE):

1. Better Buildings Residential Revolving Loan Fund (Residential RLF) – 0% on-bill financing through partnership with the state's utility run Home Performance with ENERGY STAR® (HPwES) program
2. Better Buildings Residential Loan Loss Reserve (Residential LLR) – 50% loan loss reserve funds backing residential bank and credit union loans for energy efficiency
3. Better Buildings Commercial Revolving Loan Fund (Commercial RLF) – 2% - 4% co-lending agreements for commercial energy efficiency loans with local banks and credit unions
4. Better Buildings Commercial Loan Loss Reserve (Commercial LLR) – 50% loan loss reserve funds backing commercial bank and credit union loans for energy efficiency

Residential on-bill financing and commercial co-lending loan repayments and interest income accumulate in two Revolving Loan Funds (RLF) to be utilized for future loans. The two loan loss reserves earn interest and are available to back additional loans once the aggregate outstanding loan principal is less than the amount of the reserve. A contract between OEP and CDFA stipulating the terms and conditions under which the Better Buildings Funds were to be established and administered was approved by Governor and Executive Council on July 14, 2010 (Item #9), and was subsequently amended and approved by the New Hampshire Executive Council on April 3, 2013 (Item #6), July 24, 2013 (Item #1), and October 15, 2014 (item #25).

The purpose of this contract between OEP and CDFA is to identify the terms and conditions under which the program shall be managed now that the original funds provided under a previous agreement have been fully expended. For the purposes of this contract, all references to Better Buildings or RLF or LLR shall apply to any subsequent or successor revolving loan fund or financial program administered by

CDFA or its assigns that utilizes the capital and/or repaid principal and interest and fees from loans made under the original agreement between CDFA and OEP referenced above.

This program shall be administered in accordance with EECBG Program Notice 09-002D "Guidance for Energy Efficiency and Conservation Block Grant Grantees on Financing Programs" revised on October 17, 2012, as may be amended from time to time by U.S. Department of Energy. This Program Notice is included as Exhibit C to this contract and should be used as reference for administration of Better Buildings.

## 2. DEFINITIONS

- 2.1. **Qualified Business:** A for profit or nonprofit entity that is
- a) Registered with the NH Secretary of State's office at the time of loan or incentive;
  - b) Not debarred from receiving federal funds as determined by their appearance on the federal excluded parties list system ([www.sams.gov](http://www.sams.gov)) as of the time of loan or incentive;
  - c) Proposing to use funds from Better Buildings RLF for Allowable Project Purposes; and
  - d) Meeting all relevant requirements set by CDFA loan committee or other body duly authorized to make loan decisions under this program.
- 2.2. **Qualified Residents:** New Hampshire residential property owners that qualify for the HPwES program.
- 2.3. **Partners:** Entities that have a contractual relationship with CDFA to assist in the execution of Better Buildings work performed under this agreement.
- 2.4. **Allowable Project Purposes:** Better Buildings projects must achieve a minimum 15% energy saving by installing measures that include the following, provided that the projects in which such measures are undertaken otherwise meet the terms and conditions contained in this agreement: air sealing and insulation; HVAC equipment replacement; photovoltaics and solar hot water systems that are categorically excluded under the National Environmental Policy Act (NEPA); energy recovery systems; energy efficient lighting, windows, doors, fans, motors, equipment; and energy assessments / audits on buildings located in New Hampshire and owned by the residential, for profit or nonprofit borrower. Any other project purposes must be approved in writing by OEP in advance of loans being approved by CDFA and/or its Partners.
- 2.5. **Program Income:** Payments made to CDFA or its Partners from borrowers in the form of interest, fees and penalties, or any other payments relating to loans or grants, except for repayment of principal on loans, originating with Better Buildings funds provided by OEP's ARRA Energy Efficiency and Conservation Block Grant.
- 2.6. **Program Period/Completion Date:** This contract is effective from Governor and Executive Council approval date through December 31, 2016 for program activities and financing product administration. The New Hampshire Office of Energy and Planning at any time, in its sole discretion, may terminate the contract or postpone or delay all and any part of this contract, upon written notice.

## 3. SCOPE OF SERVICES

### 3.1. **Residential Loan and Incentive Programs:**

- 3.1.1. CDFA will administer the Better Buildings Residential RLF to provide financing resources to the state's utility administered, ratepayer funded residential Home Performance with ENERGY STAR® (HPwES) program to improve the energy efficiency of homes. Upon NH Public Utilities Commission (PUC) approval, the Better Buildings Residential RLF may be utilized to support HPwES in several ways:

through co-lending, a loan loss reserve, or interest rate buy-downs. During the 2015 HPwES program year, Residential RLF funds will be allocated for interest rate buy-downs for HPwES loans. Partner banks and credit unions will determine the eligibility of Qualified Residents for interest rate buy-downs and loans and will follow all relevant internal policies for lending money to ensure sound investments and to minimize losses. Support will be reevaluated annually and defined in an annual Residential RLF Management Plan.

- 3.1.2. CDFA and/or its Partners may leverage additional funds to further capitalize Better Buildings Residential Revolving Loan Fund as long as such funds are accounted for distinctly from the ARRA-EECBG funds.
- 3.1.3. CDFA will receive loan repayments from existing Residential RLF borrowers (Unitil and PSNH) and shall make quarterly payments to the six NH Electric and Gas HPwES programs as described in the annual residential RLF management plan. Program income collected in excess of the amount allocated for Program Delivery Costs must be used to fund loans and/or incentives for Allowable Project Purposes based on the OEP-approved Residential RLF Management Plan.
- 3.1.4. No new loan or incentive program shall be executed by CDFA until OEP has been notified and has approved in writing the Residential RLF Management Plan for the period in which the loan or incentive is to be executed, as described in section 3.5 of this Agreement.

3.2. Commercial Loan and Incentive Programs:

- 3.2.1. CDFA will administer the Better Buildings Commercial funds to provide financial resources to Qualified Businesses to improve the energy efficiency of buildings and related systems, and to incorporate cost-effective renewable energy systems when appropriate. Through its loan application and review process, CDFA will determine the eligibility of Qualified Businesses for funding, and will follow all relevant internal policies for lending money to ensure sound investments and to minimize losses.
- 3.2.2. CDFA and/or its Partners may leverage additional funds to further capitalize Better Buildings Commercial Revolving Loan Fund as long as such funds are accounted for distinctly from the ARRA-EECBG funds.
- 3.2.3. CDFA will collect loan repayments and interest, default payments, late payments, fees and other penalties, or any other payments relating to loans. CDFA may use Program Income to fund loans and/or incentives to Qualified Businesses for Allowable Project Purposes in accordance with the OEP-approved Commercial RLF Management Plan. In accordance with Exhibit B, CDFA may also use Program Income for reimbursement of Administrative Costs related to the administration of the commercial RLF, as well as for Commercial Program Delivery Costs.
- 3.2.4. CDFA shall notify OEP in writing regarding any renewable energy projects it seeks to fund consisting of the installation of projects that have not previously received categorical exclusion under the National Environmental Policy Act (NEPA), and will delay a final loan decision until it is determined by OEP that the project complies with federal rules regarding NEPA, including State Historic Preservation rules and regulations. OEP reserves the right to reject proposals or projects that trigger NEPA or historic preservation rules without seeking DOE approval.
- 3.2.5. No new loan or grant shall be executed by CDFA until OEP has approved in writing the Commercial RLF Management Plan for the period in which the loan or grant is to be executed, as described in section 3.5 of this Agreement.

3.3. Residential and Commercial Loan Loss Reserves:

- 3.3.1. CDFA will administer Better Buildings Loan Loss Reserve accounts to provide guarantees to banks and credit unions which provide loans to Qualified Businesses and Qualified Residents to improve the energy efficiency of buildings and related systems, and to incorporate cost-effective renewable energy systems. CDFA will confirm the eligibility of the Qualified Business or Qualified Resident for funding.

- 3.3.2. No new loan shall be guaranteed by banks or credit unions until OEP has approved in writing the Residential and/or Commercial LLR Management Plan for the period in which the loan is to be executed, as described in section 3.5 of this Agreement.

**3.4. Management Reports:**

- 3.4.1. CDFA shall provide Management Reports to OEP as required to meet U.S. Department of Energy program reporting requirements. Within 7 days of receipt of a Management Report, OEP will identify in writing any and all concerns, recommendations, and requests for additional information required of CDFA relating to the Management Report. Once all such requests have been satisfied, OEP will issue approval of the Management Report.

Management Reports shall consist of the following elements and are due on a quarterly basis to OEP no later than 15 days after the end of the calendar quarter.

**3.4.1.1. Financial Reports:**

a. Report the following data to OEP:

- Program Income (interest earned, fees, etc.)
  - Number of grants (interest rate buy-downs) given
  - Monetary value of grants (interest rate buy-downs) given
  - Dollar value and number of loans made or incentivized
  - Interest rate on loans made or incentivized
  - Dollar value and number of write-offs/loan losses
  - Number of buildings retrofitted
  - Square footage of buildings retrofitted
  - Funds Leveraged
  - Other requirements of the U.S. Department of Energy
- b. Schedules or spreadsheets showing the amount of Program Income received, the entities from which it was received over the previous quarter, broken down by recipient, vendor, or payee, as well as funds leveraged by the program from other sources including private investment.
- b. Schedules or spreadsheets showing the amount of funding that was expended in the form of loans, grants (interest rate buy-downs), energy audits, Program Delivery Costs, and any other Better Buildings expenditures over the previous quarter, broken down by loan or grant recipient, Partner, vendor, and/or payee.
- c. Copies of invoices or other documentation of allowable Program Delivery Costs incurred by CDFA and/or its Partners in the previous quarter that were reimbursed from Program Income (Revolving Loan) funds.

**3.4.1.2. Narrative Report:**

- a. A description of the previous quarter's activities, including projects funded, Partners engaged, variations from expectations outlined in the current Management Plan, losses incurred, monitoring and oversight activities and outcomes, and any other successes, issues, or problems.
- b. A report on the energy savings anticipated from projects completed during the previous quarter.
- c. Other requirements of the U.S. Department of Energy.

**3.4.1.3. Other Required Reports:**

- a. By April 15 and October 15 of each year, CDFA shall provide a report regarding their oversight of Davis-Bacon and Related Acts (DBA) compliance and enforcement. The reports shall cover the periods October 1 through March 31 and April 1 through September 30, unless otherwise directed by OEP.



- b. By October 15 of each year, CDFA shall provide a report on projects undertaken during the previous year that triggered state historic preservation Section 106 review, the historic preservation requirements imposed on such projects or the exemptions that were cited to indicate no adverse impact was anticipated by proposed project. This report shall cover the period October 1 through September 30, unless otherwise directed by OEP.
- c. By January 30 of each year, CDFA shall provide a report on equipment or real property valued in excess of \$5,000 per unit that was purchased with Better Buildings funds for use by CDFA and/or Partners during the previous calendar year, including a description of the equipment, the market value at time of installation, the address where such equipment was placed in use, the owner of the equipment, and the expected life of the equipment per IRS depreciation schedules. If no such equipment was purchased, CDFA shall provide a statement to that effect as its report.

3.5. Management Plans:

- 3.5.1. CDFA shall provide to OEP one written Management Plan breaking out the plans for each financial product identified in paragraph 1 (Residential RLF, Commercial RLF, Residential LLR and Commercial LLR). Each plan will cover a single calendar year period and may be deemed renewed for the next calendar year if both parties concur in writing no later than October 15. The first of these Management Plans shall be provided to OEP 30-days after Governor and Executive Council approval and subsequent Plans shall be provided by November 30 every year. Within 30 days of receipt, OEP will identify in writing any and all concerns, recommendations, and requests for additional information required of CDFA relating to the proposed Management Plan. Once all such requests have been satisfied, OEP will issue written approval of the Management Plan. No loans or grants shall be executed by CDFA or its Partners unless a Management Plan covering the period in which the loan or grant is to be executed has been approved in writing by OEP

Management Plans shall consist of the following:

- 3.5.1.1. The number and type of Qualified Residents or Qualified Businesses that are anticipated to be served in the subsequent 12 months, and the type of projects CDFA anticipates funding, and expected application deadlines.
  - 3.5.1.2. The breakdown of funding and projects between residential, for-profit businesses and non-profit businesses.
  - 3.5.1.3. A description of CDFA's current and anticipated Partners and the role CDFA anticipates they will play in carrying out the contract, including documentation relating to any new Partners showing their qualifications to receive federal funding (e.g., DUNS, non-inclusion on the Disbarment list, A133 or other financial audits).
  - 3.5.1.4. A monitoring plan showing that CDFA is providing sufficient oversight of Partners, borrowers, and borrowers' contractors to identify fraud, waste and abuse. Such plans shall ensure that at least 10% of active Commercial projects receive financial and program monitoring, and that monitoring of Davis Bacon and Related Act compliance is sufficiently robust.
  - 3.5.1.5. Any major changes anticipated to CDFA and/or its Partner's Better Buildings-related loan application, review or decision making process.
  - 3.5.1.6. Cash flow and cost projections.
  - 3.5.1.7. Program reporting requirements.
  - 3.5.1.8. Any modifications to the limits defined in Exhibit B regarding caps on amounts CDFA may be reimbursed for administrative and program costs.
- 3.5.2. The loan program will conform to the following, unless otherwise approved by OEP:
- Administrative and Program Delivery Costs of CDFA and all its Partners shall not exceed those defined in Exhibit B.
  - Each project funded will achieve a minimum of 15% in energy savings.
  - Energy efficiency projects funded will have an anticipated simple payback of 10 years or less.
  - Renewable energy projects funded will have an anticipated simple payback of 20 years or less.
  - No loan shall exceed the project's anticipated simple payback.

- Energy audit costs shall not be included in loan amounts.

3.6. Program Monitoring and Compliance:

- 3.6.1 CDFA will ensure that projects funded with Better Buildings funds, including those managed by its Partners, are carried out as contracted and in compliance with federal procurement requirements, allowable cost provisions, EECBG rules, including prohibitions of investment in certain types of activities, and American Recovery and Reinvestment Act provisions including but not be limited to Davis Bacon and Related Acts, Buy American, National Environmental Policy Act, State Historic Preservation, federal procurement rules, and that all flow down provisions are included in relevant contracts, loan and grant documentation etc.
- 3.6.2 U.S. DOE American Recovery and Reinvestment Act - Special Terms and Conditions (Exhibit J) and DOE Assurances In Exhibits D - I remain in force until otherwise indicated by OEP and is included as an Exhibit to this agreement for reference.
- 3.6.3 CDFA shall undertake regular monitoring of its Partners, borrowers, and contractors employed in making energy efficiency improvements sufficient to ensure that the opportunity for waste, fraud and abuse is minimized.
- 3.6.4 CDFA shall provide access to OEP, DOE and others for the purposes of monitoring and auditing all records relating to the execution of Better Buildings, and ensure that its Partners, and all borrowers, grantees, and contractors compensated with Better Buildings funds to undertake projects, shall also provide access to OEP, DOE and others upon request until Better Buildings is terminated.
- 3.6.5 Within 30 days of the completion of each Better Buildings-funded project, CDFA shall have delivered to OEP's office all records associated with that project pertaining to Davis Bacon and Related Acts (DBA) compliance and enforcement, including original signed weekly payroll records, copies of all DBA-related communication, original documentation of employee interviews, conformances, restitutions, etc. Such records shall be provided in an organized format that is mutually agreed upon by CDFA and OEP.

3.7. Promotion of Program

- 3.7.1. CDFA shall promote Better Buildings programs with New Hampshire residents, businesses and nonprofits. CDFA will provide OEP access to all outreach and publicity products.

4. TERMINATION

4.1 Conditions of Continuation and No-Default Termination

- 4.1.1. If this agreement is not extended, modified or terminated as of the Completion Date identified in Form P-37 Section 1.7, CDFA shall continue to administer Better Buildings according to the terms of this contract and any amendments hereto that have been duly authorized by both parties and, if required, by the NH Governor and Executive Council until termination of Better Buildings.
- 4.1.2. The Terms of Default/Remedies described in the P37 Section 8 shall apply to this contract.
- 4.1.3. CDFA may terminate the program with just cause by sending by certified mail to OEP a Termination Letter describing the reasons for termination and identifying a Termination Date not less than 90 days subsequent to the date of the Termination Letter. As of the Termination Date, CDFA and its Partners shall return to OEP all funds remaining in Better Buildings, and assign all Better Buildings loan repayments, including principal and interest, to OEP or its designee, unless otherwise agreed to in writing by OEP and CDFA.
- 4.1.4. If this agreement is terminated in accordance with paragraphs 2.6 or 3.5.1 above, or by the mutual agreement of the two parties, as of the Termination Date, OEP is entitled to collect from CDFA all remaining funds within Better Buildings. OEP is also entitled to require that on or subsequent to the Termination Date, CDFA and its Partners assign all Better Buildings loan repayments, including principal and interest, to OEP, or to some other designee named by OEP in the Termination Letter.



**Exhibit B - Costs: Method and Terms of Reimbursement**  
**American Recovery and Reinvestment Act - Energy Efficiency and Conservation Block Grant**

**1. COSTS; REIMBURSEMENT; REVIEW BY OEP**

**1.1 Costs: The following terms shall apply to this agreement:**

- 1.1.1 Administrative Costs shall mean all expenses directly or indirectly incurred by Community Development Finance Authority (CDFA) in the administration and reporting of the Financing Products (RLFs and LLRs) as determined by the Office of Energy and Planning (OEP) to be eligible and allowable for reimbursement in accordance with cost standards set forth in 2 CFR 200 Uniform Administrative Requirements, Cost Principles, and Requirements of Federal Awards as revised from time to time. Administrative costs may include but are not limited to collecting loan payments, distributing funds as directed by OEP, program marketing and website, and preparing and providing reports on the fund balances to OEP.**
- 1.1.2 Commercial Program Delivery Costs: Commercial program costs incurred by CDFA and its Partners in the course of managing the loans and incentives provided under the Better Buildings commercial financing program (Commercial RLF), which include but are not limited to, personnel costs related to underwriting, project management and monitoring, financial audits, travel, verification and compliance with all federal, state, and local laws, rules, and regulations and this contract, and indirect costs based on a federally approved indirect cost rate to be provided to OEP annually for CDFA and its Partners. For those Partners that do not have a federally approved indirect cost rate, CDFA shall provide to OEP for its approval on an annual basis the methodology by which such indirect costs will be charged for that Partner. These Costs should be built into the loan or otherwise paid by the borrower.**
- 1.1.3 Reimbursement of Commercial Program Delivery and Administrative Costs: Subject to the terms and conditions of this agreement and the approved Management Plan, CDFA may monthly reimburse Administrative and Commercial Program Delivery Costs; however, in no event shall the total of all reimbursements pursuant to this Agreement exceed the limits of the Commercial Revolving Loan Fund as set out in Paragraphs 5.1 and 5.2 of this Exhibit, and provided further that all Costs shall have been incurred prior to the Completion Date as noted in Paragraph 2.6 of Exhibit A- Scope of Services.**
- 1.1.4 Review by OEP; Disallowance of Costs: At any time during the performance of the Program and Project Activities, and upon receipt of the quarterly reports or Audited Financial Report, OEP may review all Administrative and Program Costs incurred by CDFA and all disbursements made to date. At any time during the Agreement period, OEP may review all costs to insure compliance with federal regulations. Upon such review, OEP shall disallow any items of expense which are not determined to be allowable or are determined to be in excess of actual expenditures, and shall, by written notice specifying the disallowed expenditures, inform CDFA of any such disallowance. If OEP disallows costs for which reimbursement has not yet been made, it shall refuse reimbursement of such costs. If reimbursement has been made with respect to costs**

which are subsequently disallowed, the amount of disallowed costs must be returned to the appropriate revolving loan fund under this Agreement.

2. METHOD AND TERMS OF DISBURSEMENT FOR ALLOWABLE COSTS

- 2.1 When Funds May Be Disbursed: CDFA shall not disburse funds from the Financial Products to its Partners or to CDFA for any reason until such time as an approved Management Plan is fully executed.
- 2.2 Disbursement of funds by CDFA does not constitute acceptance of any item as an eligible cost.

3. REQUIRED SUPPORTING DOCUMENTATION FOR DISBURSEMENT OF RLF FUNDS

- 3.1 Disbursement requests for all Administrative and Commercial Program Delivery Costs shall be accompanied by proper supporting documentation in the amount of each requested disbursement. Documentation may include invoices for supplies, equipment, services, contractual services, and, where applicable, a report of salaries paid.

4. LIMITATIONS ON USE OF FUNDS

- 4.1 Revolving loan funds are to be used in a manner consistent with the US DOE Recovery Act: EECBG- New Hampshire Beacon Community Project, Special Terms and Conditions (Attachment I).
- 4.2 Revolving loan funds (Residential and Commercial RLF, and Residential and Commercial LLR) may not, without advance written approval by OEP, be obligated or disbursed prior to the Management Plan Approval Date or subsequent to the Completion Date.

5. ADMINISTRATIVE AND PROGRAM DELIVERY COST RESTRICTIONS

- 5.1 Commercial RLF: Annually, Administrative Costs incurred by CDFA (as defined in 1.1.1) may not exceed 2% of the value of the Commercial RLF Financial Product on September 30<sup>th</sup> of previous calendar year.
- 5.2 Commercial RLF: Annually, Commercial Program Delivery Costs incurred by CDFA (as defined in 1.1.2) may not exceed the total amount of any fees and interest earned. Fees are capped at no more than 10% of a new Qualified Business loan amount.
- 5.3 Residential RLF: Annually, no more than 0.25% of the value of Residential RLF Financial Product on September 30<sup>th</sup> of previous calendar year shall be used annually by CDFA and its Partners to pay for Administrative Costs in support of the Residential Revolving Loan Fund.
- 5.4 Residential and Commercial LLR: Loan Loss Reserves are held in escrow at Partner banks and credit unions; therefore, no disbursements may be taken against these Financial Products.

6. PERFORMANCE OF SERVICES PRIOR TO EFFECTIVE DATE

- 6.1 Any Activities performed by CDFA prior to the Effective Date of this agreement and prior to OEP's approval of the Management Plan shall be performed at the sole risk of CDFA and will not be reimbursed from the RLF without their prior approval from OEP.

7. REVOLVING LOAN FUND AND LOAN LOSS RESERVE ACCOUNTS

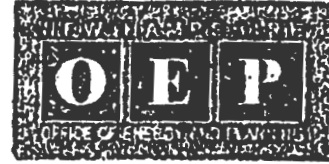
- 7.1 All program funding and income earned, including loan repayments, interest and fees, during the term of this Agreement shall be reinvested into the appropriate Revolving Loan Funds (RLF) or Loan Loss Reserve (LLR) accounts.
- 7.2 When funds become available in a Financial Product (RLF or LLR), CDFA shall use those funds to further the goals of the US DOE Recovery Act: EECBG- New Hampshire Beacon Community Project, Special Terms and Conditions (Attachment I) and the Management Plan.



New Hampshire Office of Energy and Planning

Exhibit C

EECBG Program Notice 09-002D  
Guidance for Energy Efficiency and Conservation Block Grantees on Financing Programs  
by U.S. Department of Energy  
Dated (revised) October 17, 2012



**New Hampshire Office of Energy and Planning**

**STANDARD EXHIBIT D**

The Contractor identified in paragraph 3 in Exhibit A agrees to comply with the provisions of Sections 5151-5160 of the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, Title V, Subtitle D; 41 U.S.C. 701 et seq.), and further agrees to have the Contractor's representative, as identified in Sections 1.11 and 1.12 of the General Provisions execute the following Certification:

**CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS  
ALTERNATIVE I - FOR GRANTEES OTHER THAN INDIVIDUALS**

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

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

Director, New Hampshire Office of Energy and Planning,  
107 Pleasant Street, Johnson Hall, Concord, NH 03301

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

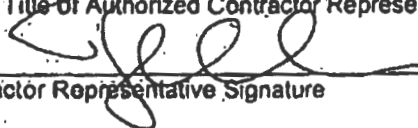
**CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS  
ALTERNATIVE I - FOR GRANTEES OTHER THAN INDIVIDUALS, cont'd**

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

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

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

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

Community Development Finance Authority	01/01/15-12/31/16
Contractor Name	Period Covered by this Certification
TAYLOR CAWELL, EXECUTIVE DIRECTOR	
Name and Title of Authorized Contractor Representative	
	12/12/14
Contractor Representative Signature	Date



New Hampshire Office of Energy and Planning.

STANDARD EXHIBIT E

The Contractor identified in Paragraph 3 in Exhibit A agrees to comply with the provisions of Section 319 of Public Law 101-121, Government wide Guidance for New Restrictions on Lobbying, and 31 U.S.C. 1352, and further agrees to have the Contractor's representative, as identified in Sections 1.11 and 1.12 of the General Provisions execute the following Certification:

CERTIFICATION REGARDING LOBBYING

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

Programs (Indicate applicable program covered):

Community Services Block Grant  
Low-Income Home Energy Assistance Program  
Senior Community Services Employment Program  
Weatherization Program  
Energy Efficiency Conservation Block Grant  
Contract Period: 01/01/15-12/31/16

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

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

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

  
Contractor Representative Signature

EXECUTIVE DIRECTOR  
Contractor's Representative Title

Community Development Finance Authority  
Contractor Name

12/12/14  
Date

New Hampshire Office of Energy and Planning

STANDARD EXHIBIT F

The Contractor identified in paragraph 3 in Exhibit A agrees to comply with the provisions of Executive Office of the President, Executive Order 12529 and 45 CFR Part 76 regarding Debarment, Suspension, and Other Responsibility Matters, and further agrees to have the Contractor's representative, as identified in Sections 1.11 and 1.12 of the General Provisions execute the following Certification:

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

*Instructions for Certification*

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

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER  
RESPONSIBILITY MATTERS - PRIMARY COVERED TRANSACTIONS, cont'd**

*Certification Regarding Debarment, Suspension, and Other  
Responsibility Matters - Primary Covered Transactions*

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

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

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

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

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

  
Contractor Representative Signature

EXECUTIVE DIRECTOR  
Contractor's Representative Title

Community Development Finance Authority  
Contractor Name

12/12/14  
Date

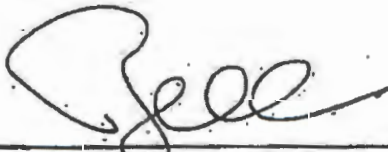
New Hampshire Office of Energy and Planning

STANDARD EXHIBIT G

CERTIFICATION REGARDING THE  
AMERICANS WITH DISABILITIES ACT COMPLIANCE

The Contractor identified in paragraph 3 in Exhibit A agrees by signature of the Contractor's representative as identified in Sections 1.11 and 1.12 of the General Provisions, to execute the following certification:

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



Contractor Representative Signature

EXECUTIVE DIRECTOR

Contractor's Representative Title

Community Development Finance Authority

Contractor Name

12/12/14

Date

New Hampshire Office of Energy and Planning

STANDARD EXHIBIT H

CERTIFICATION  
Public Law 103-227, Part C  
ENVIRONMENTAL TOBACCO SMOKE

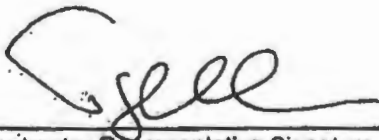
Public Law 103227, Part C Environmental Tobacco Smoke, also known as the Pro Children Act of 1994, requires that smoking not be permitted in any portion of any indoor facility routinely owned or leased or contracted for by an entity and used routinely or regularly for provision of health, day care, education,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

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

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

By signing and submitting this application the applicant/grantee certifies that it will comply with the requirements of the Act.

The applicant/grantee further agrees that it will require the language of this certification be included in any subawards which contain provisions for the children's services and that all subgrantees shall certify accordingly.



Contractor Representative Signature

EXECUTIVE DIRECTOR

Contractor's Representative Title

Community Development Finance Authority  
Contractor Name

12/12/14

Date

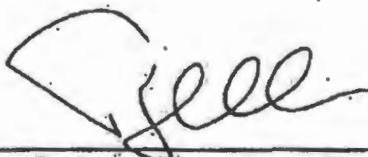
New Hampshire Office of Energy and Planning

EXHIBIT I

TITLE X  
PUBLIC HEALTH  
Chapter 147-A  
Hazardous Waste Management

The Contractor identified in paragraph 3 in Exhibit A agrees by signature of the Contractor's representative as identified in Sections 1.11 and 1.12 of the General Provisions, to execute the following certification:

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



Contractor Representative Signature

EXECUTIVE DIRECTOR

Contractor's Representative Title

Community Development Finance Authority

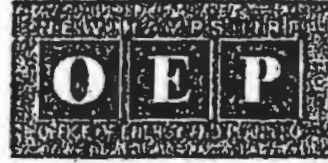
Contractor Name

12/12/14

Date

Exhibit C – Special Provisions – ARRA-Energy Efficiency and Conservation Block Grant- Retrofit Ramp-up Program  
Contract between NH Office of Energy and Planning and Community Development Finance Authority  
DOE Award # DE-EE0003576 CFDA # 81.128

10 CFR 600



**New Hampshire Office of Energy and Planning**

**Exhibit J**

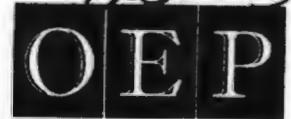
**U.S. Department of Energy American Reinvestment and Recovery Act  
EECBG – New Hampshire Better Buildings Program  
Special Terms and Conditions  
Award Number: DE-EE0003576, CFDA Number: 81.128**

P37 Exhibit J  
Initials JE  
Date 12/14/14  
Page 1 of 1



MARGARET WOOD HASSAN  
GOVERNOR

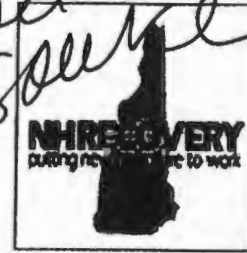
STATE OF NEW HAMPSHIRE  
OFFICE OF ENERGY AND PLANNING  
107 Pleasant Street, Johnson Hall  
Concord, NH 03301-3834  
Telephone: (603) 271-2155  
Fax: (603) 271-2615



www.nh.gov/oep

25 98

*Retroactive  
Sole Source*



ARRA  
FUNDS

October 1, 2014

Her Excellency, Governor Margaret Wood Hassan  
And the Honorable Council  
State House  
Concord, NH 03301

REQUESTED ACTION

Authorize the Office of Energy and Planning (OEP) to **RETROACTIVELY** amend a **SOLE SOURCE** contract with the Community Development Finance Authority (CDFA) (Vendor #177292), Concord, NH (Contract #1010677), by increasing the contract in an amount not to exceed \$80,753.15, from \$8,647,899.00 to \$8,728,652.15, and to extend the contract period from September 30, 2013 to December 31, 2014, for the American Recovery and Reinvestment Act-Retrofit Ramp-Up Program (ARRA RRRU) (also known as Beacon Communities Project) upon Governor and Executive Council approval. The original contract was approved by Governor and Council on July 14, 2010 (Item #9), amended on April 3, 2013 (Item #6), then amended again on July 24, 2013 (Item #1).  
100% Federal Funds – American Recovery and Reinvestment Act

Funding is available in the following account:

<u>Office of Energy and Planning, Retrofit Ramp-Up</u>	<u>FY 2015</u>
01-02-02-029910-09240000	
102-500731 Contracts for Program Services	\$80,753.15

EXPLANATION

The US Department of Energy has approved the extension of the ARRA RRRU grant to allow for full use of funds, to provide sufficient time to develop a sustainable financing program model, and to prepare for this program's transition to a revolving loan fund at the end of the federal grant period. This amendment enables CDFA to fund residential retrofits through the revolving loan fund. This amendment is **SOLE SOURCE** because CDFA has administered the program since its inception and will continue to manage the program and collect loan payments through the grant close-out period. This request is **RETROACTIVE** because it was not clear until now whether federal funds would be available to further support CDFA's efforts. In preparing for close-out, it is clear that additional funding is available to allocate to the program, and OEP wishes to fully spend down the grant.

ARRA RRRU provides energy efficiency retrofits for commercial and residential buildings statewide through a combination of grants, rebates and low-interest loans. The program has already completed projects which have reduced energy usage by a minimum of 15% in over 60 commercial buildings and over 800 residential buildings through retrofits, saving building owners over \$1,100,000.00 annually.

In the event Federal Funds are no longer available, General Funds will not be requested to support this program.

Respectfully requested,

Meredith A. Hatfield  
Director





STATE OF NEW HAMPSHIRE  
 OFFICE OF ENERGY AND PLANNING  
 107 Pleasant Street, Johnson Hall  
 Concord, NH 03301-3834  
 Telephone: (603) 271-2155



MARGARET WOOD HASSAN  
 GOVERNOR

Fax: (603) 271-2615

July 5, 2013

Her Excellency, Governor Margaret Wood Hassan  
 and the Honorable Council  
 State House  
 Concord, NH 03301

APRA  
FUNDS  
 Sole  
 Source



REQUESTED ACTION

Authorize the Office of Energy and Planning (OEP) to amend a **SOLE SOURCE** contract with the Community Development Finance Authority (CDFA) (Vendor # 177292), Concord, NH (Contract #1010677) by increasing the contract by an amount not to exceed \$59,567 from \$8,588,332 to \$8,647,899, for the Beacon Communities Project; upon Governor and Executive Council approval for the period effective July 24, 2013 through September 30, 2013. The original contract was approved by Governor and Council on July 14, 2010 (Item #9) and amended on April 3, 2013 (Item #6). 100% Federal Funds – American Recovery and Reinvestment Act.

Funding is available in the following account:

<u>Office of Energy and Planning, Retrofit Ramp-up</u>	<u>FY2014</u>
01-02-02-029910-09240000	
102-500731 Contracts for Program Services	\$59,567

EXPLANATION

The intent of this amendment is to provide additional funding for CDFA to continue to support program activities in Plymouth and Berlin, and to contract with a consultant to analyze energy and economic data gathered during the Beacon Communities Project, which aims to significantly reduce energy consumption through improvements to buildings across multiple sectors, including residential, commercial, industrial and municipal. The "Beacon" communities participating in this project are Berlin, Nashua and Plymouth. In addition, businesses throughout the state have participated through a competitive process for energy retrofit projects, and program funds were also used to leverage the ratepayer-funded energy efficiency programs administered by the state's utilities.

In the event that Federal Funds are no longer available, General Funds will not be requested to support this program.

Respectfully requested,

*Matt*

Meredith A. Hatfield  
 Director

MAH/KPC

Attachments



STATE OF NEW HAMPSHIRE  
 OFFICE OF ENERGY AND PLANNING  
 107 Pleasant Street, Johnson Hall  
 Concord, NH 03301-3834  
 Telephone: (603) 271-2155



MARGARET WOOD HASSAN  
 GOVERNOR

Fax: (603) 271-2615

March 13, 2013

Her Excellency, Governor Margaret Wood Hassan  
 and the Honorable Council  
 State House  
 Concord, NH 03301

Approval by the Governor  
 and Council on 4/3/13 NHRECOVERY  
 Agenda Item 6 putting new energy to work  
 Amend PO 1010677

**REQUESTED ACTION**

Authorize the Office of Energy and Planning (OEP) to amend a SOLE SOURCE contract with the Community Development Finance Authority (CDFA) (Vendor # 177292), Concord, NH (Contract #1010677) by increasing the contract by an amount not to exceed \$80,000 from \$8,508,332.00 to \$8,588,332.00, for the Beacon Communities Project, and further to extend the contract completion date from May 31, 2013, to September 30, 2013; effective upon Governor and Executive Council approval. The original contract was approved by Governor and Council on July 14, 2010 (Item #9). 100% Federal Funds – American Recovery and Reinvestment Act.

Funding is available in the following account with the authority to adjust encumbrances in each of the State fiscal years through the Budget Office if needed and justified:

<u>Office of Energy and Planning, Retrofit Ramp-up</u>	<u>FY 2013</u>	<u>FY2014</u>
01-02-02-029910-09240000		
102-500731 Contracts for Program Services	\$50,000.00	\$30,000.00

**EXPLANATION**

The intent of this amendment is to provide additional funding and time for CDFA to complete its work to implement the Beacon Communities Project, which aims to significantly reduce energy consumption through improvements to buildings across multiple sectors, including residential, commercial, industrial and municipal. The "Beacon" communities participating in this project are Berlin, Nashua and Plymouth. In addition, businesses throughout the state have participated through a competitive process for energy retrofit projects, and program funds were also used to leverage the ratepayer-funded energy efficiency programs administered by the state's utilities. The U.S. Department of Energy has approved the time extension for the program.

In the event that Federal Funds are no longer available, General Funds will not be requested to support this program.

Respectfully requested, .

Meredith A. Hatfield  
 Director  
 Office of Energy and Planning

MAH/KPC  
 Attachments



John H. Lynch  
Governor

STATE OF NEW HAMPSHIRE  
OFFICE OF ENERGY AND PLANNING

4 Chenell Dr.  
Concord, NH 03301-8519  
Telephone: (603) 271-2155  
Fax (603) 271-2615



June 22, 2010



His Excellency, Governor John H. Lynch  
and the Honorable Council  
State House  
Concord, NH 03301

Approval by the Governor  
and Council on 7/14/10  
Agenda Item 9  
P01010677

REQUESTED ACTION

The Office of Energy and Planning (OEP) respectfully requests authorization to enter into a **SOLE SOURCE** contract with the Community Development Finance Authority (CDFA), (Vendor #177292), Concord, NH in the amount of \$8,508,332, for work to be accomplished as part of the American Recovery and Reinvestment Act – Energy Efficiency and Conservation Block Grant’s Retrofit Ramp-up Program (Retrofit Ramp-up), effective upon Governor and Council approval through May 31, 2013. 100% Federal Funds (ARRA-Retrofit Ramp-up). Retrofit-Ramp-up funding will assist the state to begin implementing the Beacon Communities Project, a project developed by the Energy Efficiency and Sustainable Energy Board.

Funding is available in the following account, Office of Energy & Planning, Retrofit Ramp-up, with the authority to adjust encumbrances in each of the State fiscal years through the Budget Office if needed and justified:

	<u>FY 2011</u>	<u>FY 2012</u>	<u>FY 2013</u>
01-02-02-029910-0924 102-500731 Contracts for Program Services	\$4,254,166	\$2,552,500	\$1,701,666

EXPLANATION

The intent of this Contract is to provide funding to CDFA to begin implementing the Beacon Communities Project that was inspired through the work of the Energy Efficiency and Sustainable Energy Board. The Beacon Communities Project intends to implement a community driven program aimed at massive energy reductions through the retrofitting of buildings across multiple sectors, including residential, commercial, industrial and municipal. The project intends to accomplish these goals by creating innovative financing mechanisms, engaging community outreach and strengthening NH’s workforce capacity for energy efficiency improvements. Funding for this contract is from the American Recovery and Reinvestment Act, per a proposal OEP submitted to a competitive solicitation

from the federal Department of Energy. The proposal was submitted on December 14, 2009, announced by DOE on April 21, 2010, and award issued on June 1, 2010.

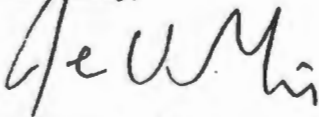
This project is part of an integrated approach to a clean energy economy in New Hampshire. It is designed to meet several goals of the state's Climate Action Plan and it will be implemented through a partnership between OEP and the CDFA. Utilizing CDFA's vast experience in financing community development, they will serve as the prime implementer of the Beacon Communities Project. CDFA, with oversight by OEP, will ensure that financial and programmatic reporting requirements are met. An advisory council of energy leaders from the public and private sectors will be formed to advise OEP and CDFA on project direction.

Strict reporting requirements will allow progress to be tracked by the public as well as by oversight agencies, and reported to the NH Office of Economic Stimulus, the Federal Department of Energy, and the US Office of Management and Budget.

This contract is sole source because CDFA was stipulated to receive these funds in OEP's successful proposal submitted to the US Department of Energy. Acceptance of the grant is contingent upon condition of the grantor that OEP contract with the referenced agency for execution of the project.

In the event that Federal Funds are no longer available, General Funds will not be requested to support this program.

Sincerely,



Joanne O. Morin  
Director  
Office of Energy and Planning

JOM/ES  
Attachments