

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS  
CONTRACT NUMBER: 587555 FOR THE  
COMPREHENSIVE ENERGY ASSISTANCE PROGRAM (CEAP)  
(CFDA# 93.568)

AMENDMENT NUMBER: 0

SECTION 1.

This contract (hereinafter "Contract") is made by and between the Texas Department of Housing and Community Affairs, an agency of the State of Texas (hereinafter the "Department") and HIDALGO COUNTY COMMUNITY SERVICES AGENCY (hereinafter the "Subrecipient").

SECTION 2.

The period for performance of this contract, unless earlier terminated, is July 17, 2007 through December 31, 2007 (hereinafter the "Contract Term").

SECTION 3.

The Contract is amended by adding additional CEAP funds.

SECTION 4. AGREEMENT

The parties hereto agree that all other terms of the Contract shall remain in effect as therein set forth and shall continue to govern except to the extent that said terms conflict with the terms of this amendment. In the event any conflict in terms exists, this amendment shall control, unless it can not be read consistently with the entirety of the contract or is made void by operation of law. Each capitalized term not expressly defined herein shall have the meaning given to such term in the Contract.

SECTION 5.

This amendment shall be effective on the date of execution.

SECTION 6.

By signing this amendment, the parties expressly understand and agree that its terms shall become a part of the Contract as if it were set forth word for word therein. This amendment shall be binding upon the parties hereto and their respective successors and assigns.

AGREED TO AND EXECUTED BY:

HIDALGO COUNTY COMMUNITY SERVICES AGENCY

BY: \_\_\_\_\_

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

BY: NOT SIGNED  
Michael Gerber, Executive Director

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS  
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ATTACHMENT A - BUDGET AND PERFORMANCE DOCUMENT

DEPARTMENT FINANCIAL OBLIGATIONS

\$75,066.00	CEAP FUNDS CURRENTLY AVAILABLE
\$0.00	TRAINING & TECHNICAL ASSISTANCE FUNDS CURRENTLY AVAILABLE
\$75,066.00	TOTAL ANTICIPATED CEAP FUNDS
\$0.00	TOTAL ANTICIPATED TRAINING & TECHNICAL ASSISTANCE FUNDS

BUDGET FOR AVAILABLE ALLOCATIONS

BUDGET CATEGORY	FUNDS	%
Administration	\$5,255.00	
Assurance 16 Activities	\$4,504.00	
Direct Services	\$65,307.00	
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TOTAL BUDGET	\$75,066.00	
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Energy Crisis	\$15,674.00	24.00
Co-Payment	\$15,674.00	24.00
Elderly and Disabled	\$15,674.00	24.00
Heating and Cooling Systems	\$15,020.00	23.00
Direct Services Support	\$3,265.00	5.00
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TOTAL DIRECT SERVICES	\$65,307.00	100

Subrecipient's service area consists of the following Texas counties:

Administrative costs, salaries, fringe benefits, non-training travel, equipment, supplies, audit and office space are limited to 7.00% of the contract expenditures, excluding Training Travel costs.

Assurance 16 Activities are limited to 6.00% of the contract expenditures excluding Training Travel costs. Direct Services Support costs are limited to 5.00% of total Direct Services expenditures.

Subrecipient may adjust dollar amounts within the following components at levels not to exceed 10% of said components: Energy Crisis, Elderly/Disabled, Heating/Cooling Systems (must be a minimum 10% of Direct Service Dollars expended). Co-Payment Percentage will be established by Subrecipient. Direct Services Support (may not exceed 5% of Direct Services dollars expended).

Department's prior written approval for purchase or lease of equipment with an acquisition cost of \$5,000 and over is required. Approval of this budget does not constitute prior approval for such purchases.

Funds may not be used for the purchase or improvement of land, or the purchase, construction, or permanent improvement of any building or facility.

Subrecipient shall provide CEAP payments through December 31, 2007 on behalf of clients who received prior commitments from Community Action Council of South Texas in:

STARR, ZAPATA

Subrecipient is limited to only one budget revision request which must be received by the Department on or before November 30, 2007.

Subrecipient shall provide outreach services under all components in this category. Failure to do so may result in contract termination. Subrecipient must document outreach, whether the outreach is conducted with "Direct Service Support" funds or other funds.

Effective Date of Budget: 07/17/2007

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SECTION 1. PARTIES TO THE CONTRACT

This contract is made by and between the Texas Department of Housing and Community Affairs (the "Department"), an agency of the State of Texas and HIDALGO COUNTY COMMUNITY SERVICES AGENCY (the "Subrecipient").

SECTION 2. CONTRACT PERIOD

The period for performance of this contract, unless earlier terminated, is July 1, 2007 through December 31, 2007.

SECTION 3. SUBRECIPIENT PERFORMANCE

Subrecipient shall, on an equitable basis throughout its service area, operate a Comprehensive Energy Assistance Program, (the "CEAP"), in accordance with the terms of this contract and all applicable state and federal regulations. Subrecipient shall assist low-income persons, with priority being given to elderly, persons with disabilities, households with young children under 6 years of age, households with high energy burden and households with high energy consumption. Subrecipient shall provide services in relation to the current census demographics for age, income, and ethnicity for Subrecipient's service area. Subrecipient shall implement the CEAP in accordance with the Low-Income Home Energy Assistance Act of 1981, as amended, 42 U.S.C. Sec. 8621 et seq. (the "LIHEAP Act" Public Law 97-35) and the LIHEAP State Plan. Services shall include the following categories of assistance: Energy Crisis, Co-Payment, Elderly and Disabled, and Heating/Cooling Systems as well as Assurance 16 activities, as further specified in the Budget (Attachment A)

SECTION 4. DEPARTMENT FINANCIAL OBLIGATIONS

- A. In consideration of Subrecipient's satisfactory performance of this contract, Department shall reimburse Subrecipient for the actual allowable costs incurred by Subrecipient in the amount specified in Attachment A of this contract.
- B. Any decision to obligate additional funds or deobligate funds shall be made by Department based upon factors including, but not limited to, the status of funding under grants to Department, the rate of Subrecipient's utilization of funds under this or previous contracts, the existence of questioned or disallowed costs under this or other contracts between the parties, and Subrecipient's overall compliance with the terms of this contract.
- C. Department's obligations under this contract are contingent upon the actual receipt of funds from the U.S. Department of Health and Human Services and the State of Texas. Department acknowledges that it has received obligations from those sources, which, if paid, will be sufficient to pay the allowable costs incurred by Subrecipient under this contract.
- D. Department is not liable for any cost incurred by Subrecipient which:
  - (1) is subject to reimbursement by a source other than CEAP/LIHEAP;
  - (2) is for performance of services or activities not authorized by

the LIHEAP Act, or which is not in accordance with the terms of this contract;

- (3) is not reported to Department on a Monthly Funding/Financial/Performance Report within sixty (60) days following the termination of the Allocation Period; or,
- (4) is not incurred during the Allocation Period.

#### SECTION 5. METHOD OF PAYMENT/CASH BALANCES

- A. Each month, Subrecipient may request an advance payment by electronically submitting to Department at its offices in Austin, Travis County, Texas, no later than the fifteenth (15th) day of the month prior to the month for which advance payment is sought, a properly completed Funding Report for an amount not to exceed Subrecipient's actual cash needs for the month for which such advance is sought.
- B. Subrecipient's requests for advances shall be limited to the amount needed and be timed to be in accordance with actual immediate cash requirements of the Subrecipient in carrying out the purpose of this contract. The timing and amount of cash advances shall be as close as administratively feasible to the actual disbursement by the Subrecipient for direct program costs and the proportionate share of any allowable indirect costs. Subrecipient shall establish procedures to minimize the time elapsing between the transfer of funds from Department to Subrecipient and the disbursement of such funds by Subrecipient.
- C. Subsection 5(A) notwithstanding, Department reserves the right to utilize a cost reimbursement method of payment if (1) Subrecipient maintains excessive cash balances or requests advance payments in excess of thirty (30) days need; (2) Department identifies any deficiency in the internal controls or financial management system used by Subrecipient; (3) Subrecipient violates any of the terms of this contract; (4) Department's funding sources require the use of a cost reimbursement method of payment or (5) Subrecipient owes the Department funds.
- D. Subrecipient shall refund, within fifteen (15) days of Department's request, any sum of money paid to Subrecipient by Department which Department determines: (1) has resulted in an overpayment to Subrecipient; or (2) has not been spent strictly in accordance with terms of this contract. Failure to comply will result in freezing contract funds and suspending the contract until such time as funds owed the Department are paid. The Department may offset or withhold any amounts otherwise owed to Subrecipient under this contract against any amount owed by Subrecipient to Department arising under this or any other contract between the parties.
- E. All funds paid to Subrecipient under this contract are paid in trust for the exclusive benefit of the eligible recipients of the Comprehensive Energy Assistance Program and for allowable administrative, direct services support, assurance 16 activities, direct services, and training/travel expenditures.

#### SECTION 6. COST PRINCIPLES AND ADMINISTRATIVE REQUIREMENTS

Except as expressly modified by law or the terms of this contract, Subrecipient shall comply with the cost principles and uniform administrative requirements set forth in the Uniform Grant and Contract Management Standards 1 T.A.C. Sec. 5.141 et seq. (the "Uniform Grant Management Standards") provided, however, that all references therein to "local government" shall be construed to mean Subrecipient. Uniform

cost principles for local governments are set forth in OMB Circular A-87, and for nonprofit organizations in OMB circular A-122. Uniform administrative requirements for local governments are set forth in OMB Circular A-102, and for non-profits in OMB Circular A-110. OMB Circular A-133 "Audits of States, Local Governments, and Non-Profit Organizations," sets forth audit standards for governmental organizations and other organizations expending Federal funds. The expenditure threshold requiring an audit under circular A-133 is \$500,000.

#### SECTION 7. USE OF ALCOHOLIC BEVERAGES

None of the funds provided under this contract shall be used for the payment of salaries to any employee who uses alcoholic beverages during normal work hours as defined by the agency. No funds provided under this contract for travel expenses shall be used for the purchase of alcoholic beverages.

#### SECTION 8. ALLOWABLE ADMINISTRATIVE, ASSURANCE 16 ACTIVITIES, AND DIRECT SERVICES SUPPORT EXPENDITURES

- A. Administrative, Assurance 16 Activities, and Direct Services Support costs incurred by Subrecipient in carrying out this contract shall be allowable up to the maximum percentage of the total allowable contract expenditures within the Allocation Period as specified in Attachment A of this contract, excluding travel costs for training.
- B. Administrative and Assurance 16 Activities funds are earned through provision of direct services to clients. Subrecipient may choose to submit a final budget revision in October to use its administration, Assurance 16 Activities, and direct services support dollars for direct service categories; however, subrecipient is still required to perform Assurance 16 Activities and Direct Service Support activities.
- C. Direct Services Support expenditures are earned through provision of direct services to clients and must be supported by appropriate documentation of the allowable activities. Direct Service Support includes cost not administrative in nature but those used for outreach and targeting only to eligible household not previously served under CEAP. Allowable expenditures include but are not limited to salaries, fringe benefits, and travel expenditures of staff when conducting outreach to eligible households not previously served under LIHEAP. Expenditures are to be allocated to both outreach and targeting. Subrecipient may opt to use LIHEAP Direct Service Support allocation for Direct Client Services only if they provide documentation that they have used non-LIHEAP resources in a comparable amount to serve the requirements of Direct Service Support. Computer purchases and any related expenditures must be charged to Administration, not Direct Services Support.
- D. In order to achieve compliance with the LIHEAP Act, subrecipients must coordinate with other energy related programs. Specifically, subrecipients must make documented referrals to the local WAP subrecipients.
- E. Subrecipients shall accept applications for CEAP benefits at sites that are geographically accessible to all households in the service area. Subrecipients shall provide elderly and disabled individuals the means to submit applications for CEAP benefits without leaving their residence or by securing transportation for them to the sites that accept such applications.

## SECTION 9. TERMINATION AND SUSPENSION

- A. Department may terminate this contract, in whole or in part, at any time Department determines that there is cause for termination. Cause for termination includes, but is not limited to, Subrecipient's failure to comply with any term of this contract. Department shall notify Subrecipient in writing at least thirty (30) days before the date of termination.
- B. Nothing in this Section shall be construed to limit Department's authority to withhold payment and immediately suspend this contract if Department identifies possible instances of fraud, abuse, waste, fiscal mismanagement, or other deficiencies in Subrecipient's performance. Suspension shall be a temporary measure pending either corrective action by Subrecipient or a decision by Department to terminate this contract.
- C. Notwithstanding any exercise by Department of its right of termination or suspension, Subrecipient shall not be relieved of any liability to Department for damages by virtue of any breach of this contract by Subrecipient. Department may withhold any payment due to Subrecipient until such time as the exact amount of damages due to Department is agreed upon or is otherwise determined.
- D. Department shall not be liable for any costs incurred by Subrecipient after termination or during suspension of this contract.

## SECTION 10. CHANGES AND AMENDMENTS

Any change in the terms of this contract required by a change in federal or state law or regulation is automatically incorporated herein effective on the date designated by such law or regulation. Except as otherwise specifically provided herein, any other change in the terms of this contract shall be by amendment in writing and signed by both parties to this contract or by a Letter of Notification (LON) signed by Department.

## SECTION 11. DEPARTMENT ISSUANCES AND TEXAS ADMINISTRATIVE CODE RULES

Department may issue policy directives and Texas Administrative Code Rules which serve to establish Subrecipient eligibility or interpret and clarify the terms of this contract. Any such policy or rule directive shall be in the form of a Policy Issuance or Texas Administrative Code Rule. An Issuance shall not alter the terms of this contract so as to relieve Department of any obligation of reimbursement of an allowable cost incurred by Subrecipient prior to the effective date of the Issuance. All Issuances and Rules promulgated by Department, whether before or after the execution of this contract, shall govern the performance of this contract until specifically rescinded or amended by Department.

## SECTION 12. MONITORING

Department or its designee may conduct on and off-site monitoring and evaluation of Subrecipient's compliance with the terms of this contract. Department's monitoring may include a review of the efficiency, economy, and effectiveness of Subrecipient's performance. Department will notify Subrecipient in writing of any deficiencies noted during such monitoring. Department may provide training and technical assistance to Subrecipient in correcting the deficiencies noted. Department may require corrective action to remedy deficiencies noted in Subrecipient's accounting, personnel, procurement, and management procedures and systems. Department may conduct follow-up visits to review the previously noted deficiencies and to assess the

Subrecipient's efforts made to correct them. Repeated deficiencies may result in disallowed costs. Department may terminate or suspend this contract or invoke other remedies Department determines to be appropriate in the event monitoring reveals material deficiencies in Subrecipient's performance, or Subrecipient fails to correct any such deficiency within a reasonable period of time. Department or its designee may conduct an ongoing program evaluation throughout the contract year.

#### SECTION 13. VENDOR AGREEMENTS

For each of Subrecipient's vendors, subrecipient shall implement and maintain a vendor agreement that contains assurances relating to fair billing practices, delivery procedures, and pricing procedures for business transactions involving CEAP recipients. All vendor agreements are subject to monitoring procedures performed by TDHCA. All vendor agreements must be renegotiated every two years.

#### SECTION 14. RETENTION AND ACCESSIBILITY OF RECORDS AND FILE MAINTENANCE

- A. Subrecipient shall maintain financial and programmatic records, and supporting documentation for all expenditures made under this contract, in accordance with the records retention and custodial requirements set forth in the Uniform Grant Management Standards, Common Rule Sec. 42.
- B. Subrecipient shall maintain a client file system to document direct services rendered. Each client file shall contain the following:
1. Client application containing all Department requirements;
  2. Documentation/verification of client income for the 30 days preceding their application for all household members 18 years and older, or Declaration of Income Statement (if applicable); as outlined in Title 10, Part I, Chapter 6, Subchapter C, 10 TAC Sec. 5.205.
  3. Copy of client's utility bill(s);
  4. Energy consumption history for previous 12 months (when available) (all fuel types) for all components;
  5. Documentation of payment (Documentation of payment may be maintained in a separate file, but must be accessible to the Department.);
  6. Documentation of benefits determination (when required by component);
  7. Notice of Denial Form (if applicable);
  8. Right of appeal and procedures (if applicable) for denial or termination of services;
  9. Any documentation required by Policy Issuances; and
  10. Client service agreement (as required by component).
  11. Case notes sufficient to document that assurance 16 activities have occurred (when required by component); minimum documentation for assurance 16 activities expenditures are contained in CEAP Issuance and will be provided by the issuance system.
  12. Priority rating form.
  13. Appliance assessment information is required by CEAP Issuance and will be provided by the issuance system.
- C. Subrecipient shall maintain complete client files at all times. Costs associated with incomplete files found at the time of program monitoring may be disallowed.
- D. Subrecipient shall give the U.S. Department of Health and Human Services, the U.S. General Accounting Office, and Department, or any of their duly authorized representatives, access to and the

right to examine and copy, on or off the premises of Subrecipient, all records pertaining to this contract. Such right to access shall continue as long as the records are retained by Subrecipient. Subrecipient agrees to maintain such records for three (3) years in an accessible location and to cooperate with any examination conducted pursuant to this Subsection. Subrecipient shall include the substance of this Subsection in all subcontracts. Upon termination of this contract, all records are property of the CEAP.

#### SECTION 15. PROCUREMENT STANDARDS

- A. Subrecipient shall develop and implement procurement procedures which conform to the uniform administrative requirements in Section 6. Subrecipient shall procure supplies, equipment, materials, or services in accordance with its procurement procedures and Policy Issuance #02-10.2. All procurement contracts, other than "small purchases" as defined in Policy Issuance #02-10.2, shall be in writing and shall contain the provisions required by Policy Issuance #02-10.2.
- B. Subrecipient shall ensure that its subcontractors comply with all applicable terms of this contract as if the performance rendered by the subcontractor was being rendered by Subrecipient. Subrecipient shall inspect all subcontractors' work and shall be responsible for ensuring that it is completed in a good and workmanlike manner.
- C. Materials and supplies procured by the state may be purchased by Subrecipients from state contracts without requiring additional solicitation. Procurement from state vendors is strongly encouraged and in some instances may be required.
- D. Subrecipient shall include language in any subcontract that provides the Department the ability to directly review, monitor, and/or audit the operational and financial performance and/or records of work performed under this contract.

#### SECTION 16. REPORTING REQUIREMENTS

- A. Subrecipient shall electronically submit to Department, no later than fifteen (15) days after the end of each month of the Allocation Period, a Funding Report of all expenditure of funds and clients served under this contract during the previous month.
- B. Subrecipient shall submit to Department, no later than sixty (60) days after the end of the Allocation Period, an inventory of all vehicles, tools, and equipment with a unit acquisition cost of \$5,000 or more and a useful life of more than one year, if purchased in whole or in part with funds received under this contract or previous Comprehensive Energy Assistance Program contracts. The inventory shall include the vehicles, tools, equipment, and appliances purchased with heating and cooling funds on hand as of the last day of the Allocation Period. Subrecipient acknowledges that all equipment and supplies purchased with funds from the CEAP are the property of CEAP and as such, stay with the subrecipient which provides CEAP services in the service area.
- C. Subrecipient shall electronically submit to Department, no later than sixty (60) days after the end of the Allocation Period, a final Funding Report of all expenditures of funds and clients served under this contract. Failure of Subrecipient to provide a full accounting of funds expended under this contract may result in the termination of this contract and ineligibility to receive additional funds. If Subrecipient fails to submit a final expenditure/performance report within 60 days of the end of the allocation period, Department will use the last report submitted by

Subrecipient as the final report.

- D. If Subrecipient fails to submit, in a timely and satisfactory manner, any report or response required by this contract, Department may withhold any or all payments otherwise due or requested by Subrecipient hereunder. Payments may be withheld until such time as the delinquent report or response is received by Department. If the delinquent report or response is not received within forty-five (45) days of its due date, Department may suspend or terminate this contract. If Subrecipient receives funds from Department over two or more Allocation Periods, funds may be withheld or this contract suspended or terminated for Subrecipient's failure to submit a past due report or response (including an audit report) from a prior contract or Allocation Period.

#### SECTION 17. INDEPENDENT SUBRECIPIENT

It is agreed that Department is contracting with Subrecipient as an independent subrecipient. Subrecipient agrees to indemnify Department against any disallowed costs or other claims which may be asserted by any third party in connection with the services to be performed under this contract.

#### SECTION 18. SUBCONTRACTS

- A. Subrecipient may not subcontract the performance of this contract unless it receives Department's prior written approval. Subrecipient shall submit to Department a signed copy of each such subcontract. Department is in no way liable to Subrecipient's subcontractor(s).
- B. Subcontractors shall comply with the terms of this contract to the same extent as if the performance rendered by the subcontractor were being rendered by Subrecipient. Subcontractors are subject to monitoring and investigation by Department.

#### SECTION 19. CONFLICT OF INTEREST/NEPOTISM

- A. Subrecipient covenants that neither it nor any member of its governing body presently has or shall acquire any interest, direct or indirect, which would conflict in any manner with the performance of this contract. No person having such interest shall be employed by Subrecipient or appointed as a member of Subrecipient's governing body.
- B. Subrecipient agrees that it will comply with Tex. Gov't. Code Ann. Ch. 573 by ensuring that no officer, employee, or member of the governing body of Subrecipient shall vote or confirm the employment of any person related within the second degree by affinity or third degree by consanguinity to any member of the government body or to any other officer or employee authorized to employ or supervise such person.
- C. Subrecipient shall ensure that no employee, officer, or agent of Subrecipient participates in the selection, award, or administration of a subcontract supported by funds provided hereunder if a conflict of interest, real or apparent, would be involved. Such a conflict of interest would arise when: (1) the employee, officer, or agent; (2) any member of his or her immediate family; (3) his or her partner; or (4) any organization which employs or is about to employ, any of the above, has a financial or other interest in the firm or person selected to perform the subcontract.

- D. Subrecipient's employees, officers, and agents shall neither solicit nor accept gratuities, favors, or anything of monetary value from subcontractors or potential subcontractors.

#### SECTION 20. NON-DISCRIMINATION AND EQUAL OPPORTUNITY

No person shall, on the grounds of race, color, religion, sex, national origin, age, handicap, political affiliation, or belief, be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment in the administration of or in connection with any program or activity funded in whole or in part with funds made available under this contract.

#### SECTION 21. LEGAL AUTHORITY

- A. Subrecipient represents that it possesses the practical ability and legal authority to enter into this contract, receive and manage the funds authorized by this contract, and to perform the services Subrecipient has obligated itself to perform hereunder.
- B. The person signing this contract on behalf of Subrecipient hereby warrants that he/she has been duly authorized by Subrecipient to execute this contract on behalf of Subrecipient and to bind Subrecipient to the terms herein set forth.
- C. Department shall have the right to suspend or terminate this contract if there is a dispute as to the legal authority of either Subrecipient, or the person signing this contract, to enter into this contract or to render performances hereunder. Should such suspension or termination occur, subrecipient is liable to Department for any money it has received for performance of the provisions of this contract.

#### SECTION 22. DEPARTMENT/CEAP TRAINING TRAVEL

- A. In order to encourage attendance by CEAP staff at Department-approved training and/or technical assistance events, the Department has added a travel fund to the contract budget. The travel budget cannot be used as program dollars.
- B. The travel funds are to be used only for Department-approved training events. Subrecipient shall adhere to either its own board-approved travel policy or the State of Texas travel policies. (Reference Policy Issuance #95-16.3).
- C. From time to time, the Department may choose to add additional funds to this category for other required travel.

#### SECTION 23. AUDIT

- A. Subrecipient shall arrange for the performance of an annual financial and compliance audit of funds received and performances rendered under this contract, subject to the following conditions and limitations:
1. Subrecipients expending \$500,000 or more in total Federal awards shall have an audit performed in accordance with the Single Audit Act Amendments of 1996, 31 U.S.C. 7501, and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations" issued June 30, 1997. For purposes of Section 23, "Federal financial assistance" means assistance provided by a Federal agency in the form of grants, contracts, loans, loan guarantees, property, cooperative agreements, interest subsidies, insurance or direct appropriations, or other assistance, but does not include amounts received as

reimbursement for services rendered to individuals in accordance with OMB guidelines. The term includes awards of Federal financial assistance received directly from Federal agencies, or indirectly through other units of State and local government;

2. Sections 4 D (3) and (4) above notwithstanding, Subrecipient may utilize funds budgeted under this contract to pay for that portion of the cost of such audit services properly allocable to the activities funded by Department under this contract, provided, however, that Department shall not make payment for the cost of such audit services until Department has received a satisfactory audit report from Subrecipient, as determined by Department.
  3. Subrecipient shall submit two (2) copies of such audit report to the Department within the earlier of thirty (30) days after receipt of the auditor's report(s), or nine (9) months after the end of the audit period. Subrecipient shall make audit report available for public inspection within thirty (30) days after receipt of the audit report(s). Audits performed under this Section are subject to review and resolution by Department or its authorized representative.
  4. The audit report must include verification of all expenditures by budget category, including matching funds, in accordance with "Attachment A-Budget" of this contract.
- B. The cost of auditing services for a Subrecipient expending less than \$500,000 in total Federal awards per fiscal year is not an allowable charge under Federal awards.
- C. Subsection A of this Section 23 notwithstanding, Department reserves the right to conduct an annual financial and compliance audit of funds received and performance rendered under this contract. Subrecipient agrees to permit Department or its authorized representative to audit Subrecipient's records and obtain any documents, materials, or information necessary to facilitate such audit.
- D. Subrecipient understands and agrees that it shall be liable to the Department for any costs disallowed pursuant to financial and compliance audit(s) of funds received under this contract. Subrecipient further understands and agrees that reimbursement to Department of such disallowed costs shall be paid by Subrecipient from funds which were not provided or otherwise made available to Subrecipient under this contract.
- E. Subrecipient shall take such action to facilitate the performance of such audit or audits conducted pursuant to this Section 23 as Department may require of Subrecipient.
- F. Subrecipient shall procure audit services through an open, competitive process at least once every four years. The auditor shall retain working papers and reports for a minimum of the four years after the date of issuance of the auditor's report to the Subrecipient. Audit working papers shall be made available upon request to Department at the completion of the audit, as part of a quality review, to resolve audit findings, or to carry out oversight responsibilities consistent with the purposes of this Section. Access to working papers includes the right to obtain copies of working papers, as is reasonable and necessary.

In compliance with the LIHEAP Act, Subrecipient must provide an opportunity for a fair administrative hearing to individuals whose application for assistance is denied, terminated or not acted upon in a timely manner, according to the Title 10, Part I, Chapter 6, Subchapter C, 10 TAC Sec. 5.205.

#### SECTION 25. POLITICAL ACTIVITY PROHIBITED

- A. None of the funds provided under this contract shall be used for influencing the outcome of any election, or the passage or defeat of any legislative measure. This prohibition shall not be construed to prevent any official or employee of Subrecipient from furnishing to any member of its governing body upon request, or to any other local or state official or employee, or to any citizen, information in the hands of the employee or official not considered under law to be confidential information. Any action taken against an employee or official for supplying such information shall subject the person initiating the action to immediate dismissal from employment.
- B. No funds provided under this contract may be used directly or indirectly to hire employees or in any other way fund or support candidates for the legislative, executive, or judicial branches of government of Subrecipient, the State of Texas, or the government of the United States.
- C. None of the funds provided under this contract shall be paid to any official or employee who violates any of the provisions of this section.

#### SECTION 26. PREVENTION OF WASTE, FRAUD, AND ABUSE

- A. Subrecipient shall establish, maintain, and utilize systems and procedures to prevent, detect, and correct waste, fraud, and abuse in activities funded under this contract. The systems and procedures shall address possible waste, fraud, and abuse by Subrecipient, its employees, recipients, vendors, subcontractors and administering agencies. Subrecipient's internal control systems and all transactions and other significant events are to be clearly documented, and the documentation is to be readily available for monitoring by Department.
- B. Subrecipient shall give Department complete access to all of its records, employees, and agents for the purposes of any investigation of the Comprehensive Energy Assistance Program. Subrecipient shall immediately notify Department of any discovery of waste, fraud, or abuse. Subrecipient shall fully cooperate with Department's efforts to detect, investigate, and prevent waste, fraud, and abuse in the Comprehensive Energy Assistance Program.
- C. Subrecipient may not discriminate against any employee or other person who reports a violation of the terms of this contract, or of any law or regulation, to Department or to any appropriate law enforcement authority, if the report is made in good faith.

#### SECTION 27. MAINTENANCE OF EFFORT

Funds provided to Subrecipient under this contract may not be substituted for funds or resources from any other source nor in any way serve to reduce the funds or resources which would have been available to, or provided through, Subrecipient had this contract never been executed.

#### SECTION 28. NO WAIVER

Any right or remedy given to Department by this contract shall not preclude the existence of any other right or remedy, nor shall any action taken in the exercise of any right or remedy be deemed a waiver of any other right or remedy. The failure of Department to exercise any right or remedy on any occasion shall not constitute a waiver of Department's right to exercise that or any other right or remedy at a later time.

#### SECTION 29. SEVERABILITY

If any portion of this contract is held to be invalid by a court or administrative tribunal of competent jurisdiction, the remainder shall remain valid and binding.

#### SECTION 30. PRIOR ORAL AND WRITTEN AGREEMENTS

All oral and written agreements between the parties relating to the subject matter of this contract have been reduced to writing and are contained in this document and attachments.

#### SECTION 31. DEBARRED AND SUSPENDED PARTIES

1. Subrecipient must not make any award (subgrant or contract) to any party which is debarred or suspended or is otherwise excluded from, or ineligible for participation in, Federal assistance programs under Executive Order 12549, "Debarment and Suspension 45 C.F.R. Part 76" (also, 48 C.F.R. Part 9).
2. Subrecipient certifies that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department.
3. Where Subrecipient is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this contract.
4. Subrecipient shall include in any subcontracts that failure to adequately perform under this Contract may result in penalties up to and including Debarment from performing additional work for the Department.

#### SECTION 32. ENVIRONMENTAL TOBACCO SMOKE/PRO-CHILDREN ACT OF 1994

Subrecipient agrees that if it or any of its subgrantees provides children's services funded directly or indirectly with Federal dollars, it will comply with 20 U.S.C. 6081 et seq. Part B, Pro-Children Act of 1994, concerning prohibition of smoking in certain indoor facilities providing services to children. Failure to comply with the provisions of this law may result in the imposition of a civil monetary penalty of up to \$1,000.00 per day.

#### SECTION 33. ATTACHMENTS

The attachments identified below are hereby made a part of this contract:

- (1) Attachment A, Budget

SIGNED: 10-16-2007

BY: \_\_\_\_\_  
HIDALGO COUNTY COMMUNITY SERVICES AGENCY

BY: ..NOT.SIGNED.....

Michael Gerber, Executive Director

This contract is not effective unless signed by the Executive Director of the Department or authorized designee.