

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
CONTRACT NO. 58120001359 FOR THE FY 2012
COMPREHENSIVE ENERGY ASSISTANCE PROGRAM (CEAP)
(CFDA # 93.568)

SECTION 1. PARTIES TO THE CONTRACT

This CEAP Contract No. 58120001359 (the "Contract") is made by and between the Texas Department of Housing and Community Affairs, a public and official agency of the State of Texas (the "Department"), an agency of the State of Texas and **County of Hidalgo Community Service Agency**, a political subdivision of the State of Texas (the "Subrecipient"), hereinafter the "Parties".

SECTION 2. CONTRACT PERIOD

The period for performance of this contract, unless earlier terminated, is **January 01, 2012** through **December 31, 2012**.

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 households, with priority being given to elderly, persons with disabilities, households with a young child 5 years of age or under, 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 Economic Opportunity Act of 1964 (Public Law 88-452), the Low-Income Home Energy Assistance Act of 1981 as amended (42 U.S.C. Sec. 8621 et seq.) (Title XXVI of the Omnibus Budget Reconciliation Act of 1981, Public Law 97-35, as amended) (the "LIHEAP Act"), Chapter 2306 of the Texas Government Code (herein the "State Act"), the implementing State regulations under Title 10, Part 1, Chapter 5, Subchapter D of the Texas Administrative Code, as amended or supplemented from time to time (herein the "CEAP State Rules"), the LIHEAP State Plan, Subrecipient's Service Delivery Plan as defined in the CEAP State Rules and and the Department's guidance related to CEAP. Services shall include the following categories of assistance pursuant to the CEAP State Rules as further specified in the Budget attached hereto as Exhibit A and incorporated herein for relevant purposes: (1) Household Crisis, (2) Co-Payment, (3) Elderly and Disabled, and (4) LIHEAP Assurance 16 activities.

SECTION 4. DEPARTMENT 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. Any decision to obligate additional funds or deobligate funds shall be made in writing by Department in its sole discretion 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.
- B. 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.
- C. Department is not liable for any cost incurred by Subrecipient which:
 - a. is subject to reimbursement by a source other than Department;
 - b. 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;
 - c. is not reported to Department on a Monthly funding/Financial/Performance Report within sixty (60) days following the termination of the Contract Period;
 - d. is not incurred during the Contract Period; or
 - e. is incurred for the purchase or permanent improvement of real property (other than low-cost residential weatherization or other energy-related home repairs).

- D Notwithstanding any other provision of this Contract, the total of all payments and other obligations incurred by Department under this Contract shall not exceed the sum of **\$4,585,237.00**.

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 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 disbursement of funds from Department to Subrecipient and the expenditure 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. 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 Contract.
- E. All funds paid to Subrecipient under this Contract are paid in trust for the exclusive benefit of the eligible clients of the CEAP and for allowable administrative, direct services support, assurance 16 activities, direct services, and training/travel expenditures.

SECTION 6. COST PRINCIPLES AND ADMINISTRATIVE REQUIREMENTS

- A. Uniform cost principles for local governments are set forth in OMB Circular A-87, and for non-profit 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.
- B. Use of Alcohol 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.
- C. Notwithstanding any other provision of this Contract, Department shall only be liable to Subrecipient for costs incurred or performances rendered for activities specified in the LIHEAP Act.

SECTION 7. 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 in writing between Parties.
- D. Department shall not be liable for any costs incurred by Subrecipient after termination or during suspension of this Contract.
- E. 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.
- F. Subrecipient's failure to expend the funds provided under this Contract in a timely manner may result in either the termination of this Contract or Subrecipient's ineligibility to receive additional funding under CEAP, or a reduction in the original allocation of funds to Subrecipient.

SECTION 8. CHANGES AND AMENDMENTS

- A. Any change, addition or deletion to the terms of this Contract required by a change in federal or state law or regulation is automatically incorporated herein and is effective on the date designated by such law or regulation.
- B. Except as specifically provided otherwise in this Contract, any changes, additions, or deletions to the terms of this Contract shall be in writing and executed by both Parties to this Contract. If any Party returns an executed copy by facsimile machine or electronic transmission, the signing party intends the copy of its authorized signature printed by the receiving machine or the electronic transmission, to be its original signature..

SECTION 9. TECHNICAL ASSISTANCE AND 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 efficacy 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 in order to comply with State or Federal requirements. 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 deficiency within a reasonable period of time, as determined by the Department. Department or its designee may conduct an ongoing program evaluation throughout the Contract Period.

SECTION 10. RETENTION AND ACCESSIBILITY OF RECORDS AND FILE MAINTENANCE

- A. Subrecipient shall maintain fiscal and programmatic records and supporting documentation for all expenditures of funds made under this Contract in accordance with the Uniform Grant Management Standards, Section III, Common Rule: State Uniform Administrative Requirements for Grants and Cooperative Agreements, Subpart C -Post Award Requirements, _42.
- B. Open Records. Subrecipient acknowledges that all information collected, assembled, or maintained by Subrecipient pertaining to this Contract is subject to the Texas Public Information Act, Chapter 552 of Texas Government Code and must provide citizens, public agencies, and other interested parties with reasonable access to all records pertaining to this Contract subject to and in accordance with the Texas Public Information Act.

- C. Subrecipient shall give the U.S. Department of Health and Human Services, the U.S. General Accounting Office, the Texas Comptroller, the State Auditor's 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 in an accessible location for the greater of: (i) four (4) years; (ii) if notified by the Department in writing, the date that the final audit is accepted with all audit issues resolved to the Department's satisfaction; (iii) if any litigation claim, negotiation, inspection, or other action has started before the expiration of the required retention period records must be retained until completion of the action and resolution of all issues which arise under it; (iv) a date consistent with any other period required by federal or state law or regulation. Subrecipient agrees to cooperate with any examination conducted pursuant to this Subsection. Upon termination of this Contract, all records are property of the Department.
- D. 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 (DIS) (if applicable). In order to use the DIS form, each subrecipient shall develop and implement a written policy and procedure on the use of the form, including policies requiring a client statement of efforts to obtain documentation of income with a notarized client signature; as outlined in § 5.407(c) of the CEAP State Rules.
 - (3) Copy of client's utility bill(s);
 - (4) Energy consumption history for previous 12 months (when available) (all fuel types) for Co-Payment and Elderly and Disabled;
 - (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;
 - (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 directives; and
 - (10) Client service agreement (as required by component).
 - (11) Case notes sufficient to document that Assurance 16 activities (needs assessment, referrals, budget counseling, energy conservation education and assistance with energy vendors) have occurred.
 - (12) Priority rating form.
- E. Subrecipient shall maintain complete client files at all times. Costs associated with incomplete files found at the time of program monitoring may be disallowed.

SECTION 11. REPORTING REQUIREMENTS

- A. Subrecipient shall electronically submit to Department, no later than fifteen (15) days after the end of each month of the Contract Period, a Funding Report of all expenditures 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 Contract Period, an inventory of all vehicles, tools, and equipment with a unit acquisition cost of \$5,000 and /or 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 Contract 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 Contract 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 Contract 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 Contract 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 Contract Period.
- E. Subrecipient shall provide the Department with a Data Universal Numbering System (DUNS) number and a Central Contractor Registration (CCR) System number. The DUNS number must be provided in a document from Dun and Bradstreet and the current CCR number must be submitted from a document retrieved from the <https://www.bpn.gov/ccr/default.aspx> website. These documents must be provided to the Department prior to the processing first payment to Subrecipient. Subrecipient shall maintain a current DUNS number and CCR number for the entire Contract Period.

SECTION 12. PROCUREMENT STANDARDS

- A. Subrecipient shall comply with OMB Circular A-102, 10 C.F.R. § 600.236(b-i) and 10 T.A.C. § 5.10.
- B. Subrecipient may not use funds provided under this Contract to purchase personal property, equipment, goods, or services with a unit acquisition cost (the net invoice unit price of an item of equipment) of more than \$5,000 unless Subrecipient has received the prior written approval of Department for such purchase.
- C. Upon the termination or non-renewal of this Contract, Department may transfer title to any such property or equipment having a unit acquisition cost (the net invoice unit price of an item of equipment) of \$5,000 or more to itself or to any other entity receiving Department funding.

SECTION 13. INDEPENDENT SUBRECIPIENT

Subrecipient is an independent contractor. Subrecipient agrees to hold Department harmless and, to the extent allowed by law, indemnify it against any disallowed costs or other claims which may be asserted by any third party in connection with Subrecipient's performance of this Contract.

SECTION 14. SUBCONTRACTS

- A. Subrecipient may not subcontract the primary performance of this Contract and only may enter into properly procured contractual agreements for consulting and other professional services, if Subrecipient has received Department's prior written approval. Subrecipient may subcontract for the delivery of client assistance without obtaining Department's prior approval. Any subcontract for the delivery of client assistance will be subject to monitoring by the Department as per Section 9.
- B. In no event shall any provision of this Section 14, specifically the requirement that Subrecipient obtain Department's prior written approval of a subcontractor, be construed as relieving Subrecipient of the responsibility for ensuring that the performances rendered under all subcontracts are rendered so as to comply with all of the terms of this Contract, as if such performances rendered were rendered by Subrecipient. Department's approval under Section 14 does not constitute adoption, ratification, or acceptance of Subrecipient's or subcontractor's performance hereunder. Department maintains the right to monitor and require Subrecipient's full compliance with the terms of this Contract. Department's approval under this Section 14 does not waive any right of action which may exist or which may subsequently accrue to Department under this Contract.

SECTION 15. CONFLICT OF INTEREST/NEPOTISM

- A. Subrecipient shall maintain written standards of conduct governing the performance of its employees engaged in the award and administration of contracts.
- B. No employee, officer, or agent of Subrecipient shall participate in the selection, award, or administration of a contract supported by federal funds if a real or apparent conflict of interest would be involved. Such a conflict would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the Parties indicated herein, has a financial or other interest in the firm selected for an award.
- C. The officers, employees, and agents of the Subrecipient shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, or parties to subagreements. Subrecipients may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct shall provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the Subrecipient.
- D. Subrecipients who are local governmental entities shall, in addition to the requirements of this Section, follow the requirements of Chapter 171 of the Local Government Code regarding conflicts of interest of officers of municipalities, counties, and certain other local governments.
- E. Failure to maintain written standards of conduct and to follow and enforce the written standards is a condition of default under this Contract and may result in termination of the Contract or deobligation of funds.

SECTION 16. COMPLIANCE WITH LAWS

- A. FEDERAL, STATE AND LOCAL LAW. Subrecipient shall comply with the LIHEAP Act, the federal rules and regulations promulgated under the LIHEAP Act, the State Act, the State CEAP Rules, LIHEAP State Plan, and all federal, state, and local laws and regulations applicable to the performance of this Contract.
- B. DRUG-FREE WORKPLACE ACT OF 1988. The Subrecipient affirms by signing this contract that it is implementing the Drug-Free Workplace Act of 1988.
- C. PRO-CHILDREN ACT OF 1994. Subrecipient shall follow the requirements of the Pro-Children Act of 1994, (20 U.S.C. Sec. 6081 et seq.) which requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted by an entity and used routinely or regularly for the 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 States or local governments by Federal grant, contract, loan or loan guarantee.
- D. LIMITED ENGLISH PROFICIENCY (LEP). Subrecipients must provide program applications, forms, and educational materials in English, Spanish, and any appropriate language, based on the needs of the service area and in compliance with the requirements in Executive Order 13166 of August 11, 2000. To ensure compliance, the Subrecipient must take reasonable steps to insure that persons with Limited English Proficiency have meaningful access to the program. Meaningful access may entail provide language assistance services, including oral and written translation, where necessary.

SECTION 17. PROGRAM INCOME

Subrecipient shall account for and expend program income derived from activities financed in whole or in part with funds provided under this Contract in accordance with the Uniform Grant Management Standards, Common Rule, §_25, OMB Circular A-110 §_24, and OMB Circular A-102, Attachment, 2e.

SECTION 18. NON-BINDING GUIDANCE

Department may issue technical guidance to explain the rules and provide directions on terms of this Contract.

SECTION 19. NON-DISCRIMINATION AND EQUAL OPPORTUNITY

- A. A person shall not 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, on the grounds of race, color, religion, sex, national origin, age, disability, political affiliation or belief.
- B. Subrecipient agrees to carry out an Equal Employment Opportunity Program in keeping with the principles as provided in President's Executive Order 11246 of September 24, 1965.
- C. Subrecipient will include the substance of Section 19 in all subcontracts.

SECTION 20. LEGAL AUTHORITY

- A. Subrecipient assures and guarantees that it possesses the legal authority to enter into this Contract, to receive and manage the funds authorized by this Contract, and to perform the services Subrecipient has obligated itself to perform hereunder. The execution, delivery, and performance of this Contract will not violate Subrecipient's constitutive documents or any requirement to which Subrecipient is subject and represents the legal, valid, and binding agreement of Subrecipient, enforceable in accordance with its terms.
- B. The person signing this Contract on behalf of Subrecipient hereby warrants that he/she has been duly authorized by Contract to execute this Contract on behalf of Subrecipient and to validly and legally bind Subrecipient to the terms, provisions and performances herein.
- 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 on behalf of Subrecipient, to enter into this Contract or to render performances hereunder. Subrecipient is liable to Department for any money it has received from Department for performance of the provisions of this Contract, if the Department has terminated this Contract for reasons enumerated in this Section 20.

SECTION 21. 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) Subrecipient expending \$500,000 or more in total Federal awards or \$500,000 in total state financial assistance 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 21, "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.
 - (3) Subrecipient shall submit three (3) copies of such audit report and any associated management letter to the Department, two (2) copies of the audit report to Department's Compliance and Asset Oversight Division and one (1) copy of the audit report to the Department's Community Affairs Division 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. Subrecipient shall submit such audit report to the Federal clearinghouse designated by OMB in accordance with OMB A-133.
 - (4) The audit report must include verification of all expenditures by budget category, 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 21 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 facilitate the performance of such audit or audits conducted pursuant to this Section 21 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 three years after the date of directive 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.
- G. For any fiscal year ending within or immediately after the Contract Period, Subrecipient must submit an "Audit Certification Form" (available from the Department) within sixty (60) days after the Subrecipient's fiscal year end.

SECTION 22. DEPARTMENT/CEAP TRAVEL AND TRAINING

The travel funds are to be used only for Department-approved training events. Subrecipient shall adhere to OMB Circulars (A-87 {2 CFR 225} and A-122 {2 CFR 230} as appropriate), and either its board-approved travel policy, or in the absence of such a policy, the State of Texas travel policies.

SECTION 23. POLITICAL ACTIVITY PROHIBITED

- A. Funds provided under this Contract shall not 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. Funds provided under this Contract may not 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.

SECTION 24. FAITH BASED AND SECTARIAN ACTIVITY

Funds provided under this Contract may not be used for sectarian or inherently religious activities such as worship, religious instruction or proselytization, and must be for the benefit of persons regardless of religious affiliation. Subrecipient shall comply with the regulations promulgated by the HHS at 45 C.F.R. §87.2.

SECTION 25. COPYRIGHT

Subrecipient may copyright materials developed in the performance of this Contract or with funds expended under this Contract. Department and HHS shall each have a royalty-free, nonexclusive, and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use, the copyrighted work for government purposes.

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, clients, 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. HB 1196 CERTIFICATION AGAINST UNDOCUMENTED WORKERS

Pursuant to Chapter 2264 of the Texas Government Code, by execution of this Contract, Subrecipient hereby certifies that Subrecipient/Local Operator, or a branch, division, or department of Subrecipient does not and will not knowingly employ an undocumented worker, where "undocumented worker" means an individual who, at the time of employment, is not lawfully admitted for permanent residence to the United States or authorized under law to be employed in that manner in the United States. If, after receiving a public subsidy, Subrecipient, or a branch, division, or department of Subrecipient is convicted of a violation under 8 U.S.C. Section 1324a(f), Subrecipient shall repay the public subsidy with interest, at a rate of five percent (5%) per annum, not later than the 120th day after the date the Department notifies Subrecipient of the violation.

SECTION 28. SB 608 CERTIFICATION OF ELIGIBILITY

The Department may not award a Contract that includes proposed financial participation by a person who, during the five year period preceding the date of this Contract, has been convicted of violating a federal law in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, as defined by Section 39.459, Utilities Code, Hurricane Katrina, or any other disaster occurring after September 24, 2005; or assessed a penalty in a federal, civil or administrative enforcement action in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, as defined by Section 39.459, Utilities Code, Hurricane Katrina, or any other disaster occurring after September 24, 2005.

By execution of this Contract, the Subrecipient/Local Operator hereby certifies that it is eligible to participate in this Program and acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate.

SECTION 29. 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 30. 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 31. SEVERABILITY

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

SECTION 32. ORAL AND WRITTEN AGREEMENTS

- A. 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 Contract.
- B. The attachments enumerated and denominated below are a part of this Contract and constitute promised performances under this Contract:
 - 1 Exhibit A, Budget
 - 2 Exhibit B, Certification Regarding Lobbying for Contracts, Grants, Loans, and Cooperative Agreements
 - 3 Exhibit C, _PRWORA Requirements
 - 4 Exhip D, Documentation of Disability

SECTION 33. 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 clients. All vendor agreements are subject to monitoring procedures performed by TDHCA. All vendor agreements must be renegotiated every two years.

SECTION 34. SPECIAL CONDITIONS

The Pro-Children Act of 1994, [20 U.S.C. Sec. 6081 et seq.] requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted by an entity and used routinely or regularly for the 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 States or local governments by Federal grant, contract, loan or loan guarantee.

SECTION 35. EXCLUDED PARTIES LIST SYSTEM

By signing this Contract, Subrecipient certifies that neither it nor its current principle parties are included in the Excluded Parties List System (EPLS) maintained by the General Services Administration (GSA). Subrecipient also certifies that it will not award any funds provided by this Contract to any party that is debarred, suspended, or otherwise excluded from or ineligible for participation in federal assistance programs under Executive Order 12549. Subrecipient agrees that prior to entering into any agreement with a potential subcontractor that the verification process to comply with this requirement will be accomplished by checking the Excluded Parties List System at <http://www.epls.gov/> or by collecting a certification from the potential subcontractor.

SECTION 36. ALLOWABLE ADMINISTRATIVE, ASSURANCE 16 ACTIVITIES, AND DIRECT SERVICES SUPPORT EXPENDITURES

- A. Administrative and Assurance 16 Activities funds as defined under and in accordance with the CEAP State Rules are earned through provision of direct services to clients. Subrecipient may choose to submit a final budget revision in November of each year 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.
- B. Direct Services Support expenditures as defined under and in accordance with the CEAP State Rules are earned through provision of direct services to clients and must be supported by appropriate documentation of the allowable activities. Direct Service Support includes costs not administrative in nature but those used for outreach and targeting only to eligible households. Allowable expenditures include but are not limited to salaries, fringe benefits, and travel expenditures of staff when conducting outreach, and application intake. Subrecipient may opt to use LIHEAP Direct Service Support allocation for direct client services if they have used non-LIHEAP resources to serve the requirements of Direct Service Support. Computer purchases and any related expenditures must be charged to Administration, not Direct Services Support.
- C. In order to achieve compliance with the LIHEAP Act, Subrecipient must coordinate with other energy related programs. Specifically, Subrecipient must make documented referrals to the local WAP subrecipient.
- D. Subrecipient shall accept applications for CEAP benefits at sites that are geographically accessible to all households in the service area. Subrecipient 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 37. APPEALS PROCESS

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 CEAP State Rules.

SECTION 38. USE OF ALCOHOLIC BEVERAGE

Funds provided under this Contract may not be used for the payment of salaries to any Subrecipient's employees who use alcoholic beverages while on active duty, for travel expenses expended for alcoholic beverages, or for the purchase of alcoholic beverages.

SECTION 39. FORCE MAJURE

If the obligations are delayed by the following, an equitable adjustment will be made for delay or failure to perform hereunder:

- A. Any of the following events: (i) catastrophic weather conditions or other extraordinary elements of nature or acts of God; (ii) acts of war (declared or undeclared), (iii) acts of terrorism, insurrection, riots, civil disorders, rebellion or sabotage; and (iv) quarantines, embargoes and other similar unusual actions of federal, provincial, local or foreign Governmental Authorities; and
- B. The non-performing party is without fault in causing or failing to prevent the occurrence of such event, and such occurrence could not have been circumvented by reasonable precautions and could not have been prevented or circumvented through the use of commercially reasonable alternative sources, workaround plans or other means.

SECTION 40. TIME IS OF THE ESSENCE

Time is of the essence with respect to Subrecipient's compliance with all covenants, agreements, terms and conditions of this Contract.

SECTION 41. COUNTERPARTS AND FACSIMILE SIGNATURES

This Contract may be executed in one or more counterparts each of which shall be deemed an original but all of which together shall constitute one and the same instrument. Signed signature pages may be transmitted by facsimile or other electronic transmission, and any such signature shall have the same legal effect as an original.

SECTION 42. NUMBER, GENDER

Unless the context requires otherwise, the words of the masculine gender shall include the feminine, and singular words shall include the plural.

SECTION 43. NOTICE

- A. If notice is provided concerning this Contract, notice may be given at the following (herein referred to as "Notice Address"):

As to Department:

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
P. O. Box 13941
Austin, Texas 78711-3941
Attention: Sharon D. Gamble
Telephone: (512)- 475-0471
Fax: (512) - 475-3935
E-mail address: Sharon.gamble@tdhca.state.tx.us

As to Subrecipient:

County of Hidalgo Community Service Agency
P. O. Box 204
Edinburg, TX 78540
Attention: Maribel Navarro-Saenz, Executive Director
Telephone: (956) 383-6250 Fax: (956) 380-4324 Email: mnsaenz@csa-hidalgo.us

- B. All notices or other communications hereunder shall be deemed given when delivered, mailed by overnight service, or five days after mailing by certified or registered mail, postage prepaid, return receipt requested, addressed to the appropriate Notice Address as defined in the above Subsection A of this Section 43.

SECTION 44. VENUE AND JURISDICTION

This Contract is delivered and intended to be performed in the State of Texas. For purposes of litigation pursuant to this Contract, venue shall lie in Travis County, Texas.

EXECUTED to be effective on : 1/1/2012 12:00:00AM

County of Hidalgo Community Service Agency
a political subdivision of the State of Texas

By:

Title:

Date:

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

a public and official agency of the State of Texas

By:

Title Its duly authorized officer or representative

Date:

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
 CONTRACT NO. 58120001359 FOR THE FY 2012
 COMPREHENSIVE ENERGY ASSISTANCE PROGRAM (CEAP)
 (CFDA # 93.568)
 EXHIBIT A BUDGET
 County of Hidalgo Community Service Agency, a political subdivision of the State of Texas

DEPARTMENT FINANCIAL OBLIGATIONS

\$ 4,585,237.00 CEAP FUNDS CURRENTLY AVAILABLE
\$ 1,200.00 TRAINING TRAVEL ALLOWANCE FUNDS CURRENTLY AVAILABLE

BUDGET FOR AVAILABLE ALLOCATIONS

BUDGET CATEGORY	FUNDS	%
Administration	\$ 286,502.00	-
Assurance 16	\$ 229,406.00	-
Direct Services	\$ 4,068,129.00	-
TOTAL CEAP BUDGET	\$ 4,584,037.00	-

BUDGET CATEGORY	FUNDS	%
Household Crisis	\$ 1,288,241.00	31.67
Co-payment	\$ 1,288,241.00	31.67
Elderly and Disabled	\$ 1,288,241.00	31.67
Direct Service Support	\$ 203,406.00	5.00
TOTAL DIRECT SERVICES	\$ 4,068,129.00	100.00

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

HIDALGO

Administrative costs, salaries, fringe benefits, non-training travel, equipment, supplies, audit and office space are limited to 6.00% of the contract expenditures, excluding Training/Travel costs.

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

Expenditures for Elderly/Disabled must be at least 10% of Direct Service Dollars expended. Household Crisis and 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 is limited to only one budget revision request during the first 6 months of the Contract Period. A second and final budget revision must be received by the Department on or before November 16, 2012.

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.

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
CONTRACT NO. 58120001359 FOR THE FY 2012
COMPREHENSIVE ENERGY ASSISTANCE PROGRAM (CEAP)
(CFDA # 93.568)
EXHIBIT B
CERTIFICATION REGARDING LOBBYING FOR
CONTRACTS, GRANTS, LOANS, AND COOPERATIVE AGREEMENTS
County of Hidalgo Community Service Agency, a political subdivision of the State of Texas

The undersigned certifies, to the best of its 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 an 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, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, or modification of any federal contract, grant, loan, or cooperative agreement.
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, the undersigned shall complete and submit standard form -LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all 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 material representation of fact on 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.

County of Hidalgo Community Service Agency
a State non-profit corporation

By:

Title:

Date:

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

CONTRACT NO. 58120001359 FOR THE FY 2012
COMPREHENSIVE ENERGY ASSISTANCE PROGRAM (CEAP)
(CFDA # 93.568)

EXHIBIT C

PRWORA REQUIREMENTS

County of Hidalgo Community Service Agency, a political subdivision of the State of Texas

If an individual is applying for LIHEAP funds, a subrecipient must verify that the individual applying for LIHEAP funds is a qualified recipient for funding under the Personal Responsibility and Work Opportunity Act of 1996, ("PRWORA"), Pub. L. 104-193, 110 Stat. 2105, codified at 8 U.S.C. § 1601 et. seq., as amended by the Omnibus Appropriations Act, 1997, Pub. L. 104-208.

To ensure that a non-qualified applicant does not receive "federal public benefits," a unit of general purpose government that administers "federal public benefit programs" is required to determine, and to verify, the individual's alienage status before granting eligibility. 8 U.S.C. § 1642 (a) and (b). Subrecipient must use the SAVE verification system to verify and document qualified alien eligibility.

An exception to the requirement of verification of alienage status applies when the applicant's eligibility is determined by a non-profit charitable organization. To be eligible for this exemption, an organization must be both "nonprofit" and "charitable." An organization is "nonprofit" if it is organized and operated for purposes other than making gains or profits for the organization, its member or its shareholders, and is precluded from distributing any gains or profits to its members or shareholders. An organization is "charitable" if it is organized and operated for charitable purposes. The term "charitable" should be interpreted in its generally accepted legal sense as developed by judicial decisions. It includes organizations dedicated to relief of the poor and distressed or the underprivileged, as well as religiously-affiliated organizations and educational organizations. Federal Register on November 17, 1997 at 62 Fed. Reg. 61344.

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

CONTRACT NO. 58120001359 FOR THE FY 2012
COMPREHENSIVE ENERGY ASSISTANCE PROGRAM (CEAP)
(CFDA # 93.568)

EXHIBIT D

DOCUMENTATION OF DISABILITY

County of Hidalgo Community Service Agency, a political subdivision of the State of Texas

1. All CEAP purchases of portable heating/cooling units are allowable only for households "that include at least one member that is elderly, disabled, or a child aged 5 or younger when Subrecipient has met local weather crisis criteria pursuant to 10 TAC 5.423(d)(4). No other reason for purchase, including medical reasons, shall be accepted. Notwithstanding the provisions under 10 TAC 5.423(d)(4), 10 TAC 5.423(d)(7), 10 TAC 5.402, 10 TAC 5.422(d)(3), 10 TAC 5.423(a), or 10 TAC 5.423(d)(6)-(7), under NO CIRCUMSTANCES should clients' medical information be collected or kept by Subrecipients.
2. Documentation of Disability must NOT include documentation from a medical professional such as a doctor's letter, but only other forms of documentation of disability such as Social Security or a Supplemental Security Income statement, and shall be kept in client's file to validate eligibility.