



RESOLUTION NO. 136-2016
OF THE BOARD OF SUPERVISORS OF THE COUNTY OF EL DORADO

Weatherization Assistance Program

WHEREAS, the Health and Human Services Agency is a department of the County of El Dorado and is overseen by the County of El Dorado Board of Supervisors; and

WHEREAS, the Health and Human Services Agency receives funding from the California Department of Community Services and Development for administration of the Home Energy Assistance Program and the Department of Energy Weatherization Assistance Program, collectively "Weatherization Assistance Program;" and

WHEREAS, the Health and Human Services Agency administers the County of El Dorado's Weatherization Assistance Program; and

WHEREAS, the Weatherization Assistance Program determines homeowner and renter eligibility for Home Weatherization services; and

WHEREAS, Health and Human Services Agency solicits and awards bids from licensed contractors to perform specified services, which are tailored to each home and designed for maximum cost savings; and

WHEREAS, the Health and Human Services Agency, working with County Counsel and Risk Management, has developed the attached "Weatherization" boilerplate; and

WHEREAS, the boilerplate agreement defines the roles and responsibilities of Health and Human Services Agency and the contractor in providing Weatherization Assistance services; and

NOW, THEREFORE, BE IT RESOLVED THAT the Board of Supervisors of the County of El Dorado hereby authorizes the Director of the Health and Human Services Agency, or designee, to execute future Weatherization boilerplate agreements using the "Weatherization" boilerplate attached hereto as Exhibit A.

PASSED AND ADOPTED by the Board of Supervisors of the County of El Dorado at a regular meeting of said Board, held the 16th day of August, 2016 by the following vote of said Board:

Attest:
James S. Mitrison
Clerk of the Board of Supervisors

Ayes: Frentzen, Novasel, Mikulaco, Veerkamp, Ranalli
Noes: None
Absent: None

By: 
Deputy Clerk


Ron Mikulaco, Chair, Board of Supervisors

Agreement Number: _____
Vendor Name: _____

COUNTY OF EL DORADO
WEATHERIZATION ASSISTANCE PROGRAM

This document constitutes an agreement between County of El Dorado Health and Human Services Agency, Weatherization Assistance Program (hereinafter referred to as “Agency” or “County”), the agency responsible for administering the County’s Weatherization Assistance Program, and

Business Name

Business Physical/Mailing Address

Contact Person

Telephone, including area code

(hereinafter referred to as “Contractor”) for the provision of weatherization services to Agency’s client(s). Said weatherization services includes but is not limited to Heating, Venting, and Air Conditioning (HVAC); electrical services; appliance repair and replacement (cooking appliances and refrigerators); water heater repair and replacement; glass replacement and window repair/replacement; and fireplace/stove repair/replacement (includes wood, gas, and pellet).

This Agreement (Agreement) contains terms and conditions. No alteration or variation of the terms of this Agreement shall be valid and/or binding unless made in writing and properly executed by the parties incorporated herein. This Agreement shall be effective upon execution by all parties, and shall expire five (5) years from the date thereof, unless terminated earlier pursuant to the provisions contained in the section titled, “Default, Termination, and Cancellation” or “Fiscal Considerations.”

Services shall be provided to the low-income community within the applicable service area and shall be provided to households with the highest energy costs or needs in relation to income. Services shall be provided at single and multi-family dwellings. Contractor shall provide bids to County at no charge and shall complete all approved bid work within ten (10) business days of awarded bid, regardless of size, scope, or location. County retains the final discretion regarding accepting bids and authorization of repair services versus authorization of replacement services.

Agency shall:

1. Agency shall award bids based on the lowest responsible bid within the maximum allowed reimbursement pursuant to the Agency’s funding contracts with the California Department of Community Services and Development.
2. Agency shall ensure the Contractor’s cost of labor and materials are within current applicable market rates but do not exceed the maximum reimbursement.

3. The County officer or employee with responsibility for administering this Agreement is Kristine Oase-Guth, Program Manager, or successor.

Contractor shall:

1. By signing this Agreement, Contractor attests that they have the necessary equipment, personnel, materials, and services to perform the required job.
2. Contractor shall respond to Agency's request for a bid within 48 hours and Contractor understands that providing a bid does not guarantee award of bid by Agency. Services shall only be provided upon approval by Agency's Program Supervisor or Program Manager.
3. Contractor acknowledges that all services are provided in accordance with all applicable federal, state, local, and municipal laws, codes, regulations, as may be amended from time to time. Additionally, services shall be provided in accordance with Agency's weatherization contracts with the California Department of Community Services and Development (CSD). CSD contracts are available for review at <http://www.edcgov.us/HHSAForContractors/>.
4. Contractor further warrants that it has all necessary licenses, permits, notices, approvals, certificates, waivers and exemptions necessary for the provision of services hereunder and required by the laws and regulations of the United States, the State of California, the County of El Dorado, and all other appropriate governmental agencies and shall maintain these throughout the term of the agreement.
5. Contractor warrants all services will be provided in accordance with applicable Title 24 regulations and applicable Environmental Protection Agency rules regarding Lead-based Paint Poisoning Prevention in pre-1978 dwellings.
6. Contractor shall perform a combustion gas analysis test on all combustion appliances worked on to ensure they are operating per manufacture specifications and are safe. Contractor shall provide Agency with print-out proof of combustion gas analysis testing.
7. Contractor shall provide glass replacement and window repair or replacement for catastrophic leaks only.
8. Warranty: Contractor warrants to the Agency that the materials and equipment furnished under this Agreement will be of good quality and new, unless otherwise required or permitted by the Agreement. The work shall be free from defects or flaws and is of the highest quality of workmanship. Work not conforming to these requirements, including substitutions not properly approved and authorized, shall be considered defective.

Additional Terms and Conditions:

1. Availability of funds: This Agreement is valid and enforceable only if sufficient funds are made available to the States by the United States government and those funds are released by the State to the County for services to be provided under this Agreement. In addition, this Agreement is subject to any additional restrictions, limitations, or conditions enacted by the Congress or any statute enacted by the Congress which may affect the provisions, terms, or funding of this Agreement in any manner. The County's obligation for payment of any Agreement beyond the current fiscal year end is contingent upon the availability of funding from which payment can be made. No legal liability on the part of the County shall arise for payment beyond June 30 of the calendar year unless funds are made available for such performance.
2. Access to Records and Annual Audit: Contractor acknowledges that contracts involving the expenditure of public funds in excess of \$10,000 are subject to examination and audit

by the California State Auditor pursuant to Government Code Section 8546.7. Contractor shall provide Federal, State, or County authorities with access to any books, documents, papers, and records of Contractor which are directly pertinent to this specific Agreement for the purposes of audit, examination, excerpts, and transcriptions. In order to facilitate these potential examinations and audits, Contractor shall maintain all books, documents, papers, and records necessary to demonstrate performance under this Agreement for a period of at least three (3) years after final payment or for any long period required by law.

Any entity that receives federal funds, as stated in the Office of Management and Budget's "Uniform Grants Guidance," for the purposes of carrying out federal programs, must complete an annual audit. The funding threshold is aggregate funds from all sources. Contractor shall mail a certified copy of said completed annual audit to Agency within thirty (30) days of Contractor's receipt of same. All adverse audit findings must be documented and included with completed annual audit. Certified evidence of correction(s) of adverse audit findings shall be provided to Agency.

3. Debarment and Suspension Certification: By signing this Agreement, the Contractor agrees to comply with applicable Federal suspension and debarment regulations including, but not limited to 45 CFR 76 and Contractor further certifies to the best of its knowledge and belief that it and its principals or affiliates or any sub-contractor utilized under the Agreement:
 - A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or agency;
 - B. Have not within a three (3)-year period preceding this application/proposal/Agreement been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification of records, making false statements, or receiving stolen property;
 - C. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in the above Paragraph B;
 - D. Have not within a three (3)-year period preceding this Agreement had one or more public transactions (Federal, State or local) terminated for cause or default;
 - E. Shall not knowingly enter in to any lower tier or subrecipient covered transaction with any person(s) who are proposed for debarment under Federal regulations (i.e., 48 CFR part 9, subpart 9.4) or are debarred, suspended, declared ineligible or voluntarily excluded from participation in such transactions, unless authorized by the State; and
 - F. Shall include a clause titled, "Debarment and Suspension Certification" that essentially sets forth the provisions herein, in all lower tier or subrecipient covered transactions in accordance with 45 C.F.R. Part 76.

If the Contractor is unable to certify to any of the statements in this certification, the Contractor shall submit an explanation in writing to County. The terms and definitions herein have the meanings set out in the Definitions and Coverage sections of the rules

implementing Federal Executive Order 12549 (<http://www.archives.gov/federal-register/codification/executive-order/12549.html>).

If the Contractor knowingly violates this certification, in addition to other remedies available to the Federal and State Governments, County may immediately terminate this Agreement for cause or default.

4. **Nondiscrimination:** Contractor shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (e.g., cancer), age (over 40), marital status and denial of family care leave. Contractor shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code Section 12990 et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Housing Commission implementing Government Code Section 12990 set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations), are incorporated into this Agreement by reference and made a part here of as if set forth in full. Contractor shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.
5. **Catalog of Federal Domestic Assistance:** Pursuant to the Office of Management and Budget Uniform Grants Guidance for Federal Awards, all recipients and sub-recipients of federal funds must be provided the Catalog of Federal Domestic Assistance (CFDA) number at the time the contract is awarded. The following are CFDA numbers and program titles for programs administered by the County on behalf of United States Department of Health and Human Services that may apply to this contract:

CFDA Number	Program Title
93.568	United States Department of Health and Human Services
84.042	United States Department of Energy

6. **Insurance:** Contractor shall provide proof of a policy of insurance satisfactory to the County of El Dorado Risk Manager and documentation evidencing that Contractor maintains insurance that meets the following requirements:
 - A. Full Worker's Compensation and Employer's Liability Insurance covering all employees of Contractor as required by law in the State of California.
 - B. Commercial General Liability Insurance of not less than \$1,000,000.00 combined single limit per occurrence for bodily injury and property damage and a \$2,000,000.00 aggregate limit.
 - C. Automobile Liability Insurance of not less than \$1,000,000.00 is required in the event motor vehicles are used by the Contractor in the performance of the Agreement.
 - D. In the event Contractor is a licensed professional or professional consultant, and is performing professional services under this Agreement, professional liability is required with a limit of liability of not less than \$1,000,000.00 per occurrence.
 - E. Contractor shall furnish a certificate of insurance satisfactory to the County of El Dorado Risk Manager as evidence that the insurance required above is being

- maintained.
- F. The insurance will be issued by an insurance company acceptable to Risk Management, or be provided through partial or total self-insurance likewise acceptable to Risk Management.
 - G. Contractor agrees that the insurance required above shall be in effect at all times during the term of this Agreement. Contractor shall give County at least 30 days notice before the insurance is set to expire or before contractor cancels or replaces and/or amends Contractor's coverage. In the event that Contractor's insurance is proposed to be cancelled by the insurer, Contractor agrees to notify County with in five (5) working days of receiving notice or proposed cancellation. Failure to maintain insurance as identified above shall be considered a material breach, and County may, in addition to any other remedies it may have, terminate this Agreement upon occurrence of such event. New certificates of insurance are subject to the approval of Risk Management and Contractor agrees that no work or services shall be performed prior to the giving of such approval. In the event the Contractor fails to keep in effect at all times insurance coverage as herein provided, County may, in addition to any other remedies it may have, terminate this Agreement upon the occurrence of such event.
 - H. The certificate of insurance must include the following provisions stating that the County of El Dorado, its officers, officials, employees, and volunteers are included as additional insured on an additional insured endorsement, but only insofar as the operations under this Agreement are concerned. This provision shall apply to the general liability policy.
 - I. The Contractor's insurance coverage shall be primary insurance as respects the County, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the County, its officers, officials, employees, or volunteers shall be in excess of the Contractor's insurance and shall not contribute with it.
 - J. Any deductibles or self-insured retentions must be declared to and approved by the County, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the County, its officers, officials, employees and volunteers; or the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.
 - K. Any failure to comply with the reporting provisions of the policies shall not affect coverage provided to the County, its officers, officials, employees, or volunteers.
 - L. The insurance companies shall have no recourse against the County of El Dorado, its officers and employees or any of them for payment of any premiums or assessments under any policy issued by any insurance company.
 - M. Contractor's obligations shall not be limited by the foregoing insurance requirements and shall survive expiration of this Agreement.
 - N. In the event Contractor cannot provide an occurrence policy, Contractor shall provide insurance covering claims made as a result of performance of this Agreement for not less than three (3) years following completion of performance of this Agreement.
 - O. Certificate of insurance shall meet such additional standards as may be determined by the contracting County Department either independently or in consultation with Risk Management, as essential for protection of the County.

Default, Termination, Cancellation:

- A. **Default:** Upon the occurrence of any default of the provisions of this Agreement, a party shall give written notice of said default to the party in default (notice). If the party in default does not cure the default within ten (10) days of the date of notice (time to cure), then such party shall be in default. The time to cure may be extended at the discretion of the party giving notice. Any extension of time to cure must be in writing, prepared by the party in default for signature by the party giving notice, and must specify the reason(s) for the extension and the date on which the extension of time to cure expires.

Notice given under this section shall specify the alleged default and the applicable Agreement provision and shall demand that the party in default perform the provisions of this Agreement within the applicable period of time. No such notice shall be deemed a termination of this Agreement unless the party giving notice so elects in this notice, or the party giving notice so elects in a subsequent written notice after the time to cure has expired. In the event of termination for default, County reserves the right to take over and complete the work by contract or by any other means.

- B. **Bankruptcy:** This Agreement, at the option of the County, shall be terminable in the case of bankruptcy, voluntary or involuntary, or insolvency of Contractor.
- C. **Ceasing Performance:** County may terminate this Agreement in the event Contractor ceases to operate as a business, or otherwise becomes unable to substantially perform any term or condition of this Agreement.
- D. **Termination or Cancellation without Cause:** County may terminate this Agreement in whole or in part upon seven (7) calendar days written notice by County without cause. If such prior termination is effected, County will pay for satisfactory services rendered prior to the effective dates as set forth in the Notice of Termination provided to Contractor, and for such other services, which County may agree to in writing as necessary for contract resolution. In no event, however, shall County be obligated to pay more than the total amount of the contract. Upon receipt of a Notice of Termination, Contractor shall promptly discontinue all services affected, as of the effective date of termination set forth in such Notice of Termination, unless the notice directs otherwise.

Fiscal Considerations: The parties to this Agreement recognize and acknowledge that County is a political subdivision of the State of California. As such, El Dorado County is subject to the provisions of Article XVI, Section 18 of the California Constitution and other similar fiscal and procurement laws and regulations and may not expend funds for products, equipment or services not budgeted in a given fiscal year. It is further understood that in the normal course of County business, County will adopt a proposed budget prior to a given fiscal year, but that the final adoption of a budget does not occur until after the beginning of the fiscal year.

Notwithstanding any other provision of this Agreement to the contrary, County shall give notice of cancellation of this Agreement in the event of adoption of a proposed budget that does not provide for funds for the services, products, or equipment subject herein. Such notice shall become effective upon the adoption of a final budget which does not provide funding for this Agreement. Upon the effective date of such notice, this Agreement shall be automatically terminated and County released from any further liability hereunder.

In addition to the above, should the Board of Supervisors during the course of a given year for financial reasons reduce, or order a reduction, in the budget for any County department for which services were contracted to be performed, pursuant to this paragraph in the sole discretion of the County, this Agreement may be deemed to be canceled in its entirety subject to payment for services performed prior to cancellation.

Compensation for Services: For services provided herein, Agency agrees to pay Contractor monthly in arrears. Payment shall be made within forty-five (45) days following County receipt and approval of itemized invoice(s) detailing services rendered. Contractor shall submit an original invoice, which shall act as a declaration that its contents have been reviewed and approved by Contractor. Each invoice shall contain the following data:

- A. Contractor name, address, and telephone number
- B. Service dates
- C. Type of service(s) provided.
- D. Rate for each service (i.e., repair, replacement, permit, HERS rating), parts, and labor. Each service shall be listed in a separate line item.
- E. Total amount billed to the County of El Dorado under the subject invoice and authorization.
- F. Contractor shall close all permits prior to invoicing and shall attach the closed permit to the invoice.

Contractor is strongly advised to submit monthly invoices to HHSA no later than thirty (30) days following the end of a "service month." For billing purposes, a "service month" shall be defined as a calendar month during which Contractor provides services in accordance with this Agreement. Failure of Contractor to attach closed permits to invoices, or Contractor's failure to submit invoices by the 30th of the month following the end of a service month, or Contractor's failure to submit original invoices are submitted may result in payment(s) being withheld until Agency fiscal staff receives the appropriate documents. Receipt by Agency of invoices submitted by Contractor for payment shall not be deemed evidence of allowable costs under this Agreement. Upon request by County, Contractor may be required to submit additional or new information, which may delay reimbursement.

Invoices shall be sent as follows:

<i>Please send invoices to:</i>
County of El Dorado Health and Human Services Agency ATTN: Weatherization Program 937 Spring Street Placerville, CA 95667

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IN WITNESS WHEREOF, this Agreement has been executed, by and on behalf of the parties hereto, this date:

CONTRACTOR

COUNTY/AGENCY

Name of Company

Contractor Name and Title

Contractor Signature

Date

Program Manager or Program Supervisor Name

Program Manager or Program Supervisor Signature

Date

Agency Director or designee

Signature

Date