

State of Nebraska  
**NEBRASKA ENERGY OFFICE – FINANCIAL AID AGREEMENT (NEO-FAA)**

1. Recipient: <b>City of Lexington, Nebraska</b>		2. Award Number: <b>09/10-E089</b>	3. Action Number: <b>A-01</b>
4. Project Type(s): <b>Energy Efficiency Retrofits</b>		5. Project Period: (Start Date) <b>7/1/2010</b>	(End Date) <b>12/31/2011</b>
6. Project Description: <b>Opportunity Center Roof &amp; Insulation</b>		7. Purpose: <input checked="" type="checkbox"/> Aid	
		8. Federal Identification Number (FIN) or Social Security Number (SSN): <b>47-6006255</b>	
		9. DUNS Number: <b>15 628 4986</b>	
10. Budget:		12. Type of Action:	
a. Nebraska Energy Office – Aid	<b>\$250,000.00</b>	<input checked="" type="checkbox"/> New	
b. Recipient Cost-Share (Cash)	<b>\$102,500.00</b>	<input type="checkbox"/> Amendment	
c. Other:		<input type="checkbox"/> Increase Amount	
d. Other:		<input type="checkbox"/> Decrease Amount	
e. Other:		<input type="checkbox"/> Increase Duration	
11. Total Project Budget <b>\$352,500.00</b>		<input type="checkbox"/> Decrease Duration	
13. Funding Source(s):			
<input type="checkbox"/> DOE – State Energy Program (SEP) – CFDA # - 81.041			
<input type="checkbox"/> DOE – State Energy Program – Special Projects (SEP – SP) – CFDA # - 81.119			
<input type="checkbox"/> DOE – State Energy Program – ARRA (SEP – ARRA) – CFDA # - 81.041			
<input checked="" type="checkbox"/> DOE – Energy Efficiency and Conservation Block Grant (EECBG) – CFDA#81.128			
<input type="checkbox"/> Other DOE: _____			
13. Withholding Until Final Report: <input type="checkbox"/> Not Applicable      % = 10% (ten)			

14. Project Officer for the Recipient:		15. Project Officer for the Nebraska Energy Office:	
Name:	<b>Joe, Peplitsch</b>	Name:	<b>Jan E. Fox</b>
Title:	<b>City Manager</b>	Title:	<b>Energy Conservation Program Coordinator (EECBG)</b>
Street Address:	<b>P.O. Box 70</b>	Street Address:	<b>1111 "O" Street, Suite 223</b>
City, State Zip Code:	<b>Lexington, NE 68850</b>	City, State Zip Code:	<b>Lincoln, NE 68508</b>
Telephone:	<b>(308) 324 2341</b>	Telephone:	<b>(402) 471-3354</b>
Email:	<b>jpepp@cityoflex.com</b>	Email:	<b>jan.e.fox@nebraska.gov</b>
FAX:	<b>(308) 324 4590</b>	FAX:	<b>(402) 471-3064</b>


16. Recipient Type:	
<input type="checkbox"/> State Government	<input type="checkbox"/> Indian Tribal Government
<input checked="" type="checkbox"/> Local Government	<input type="checkbox"/> Institution of Higher Education
<input type="checkbox"/> Hospital	<input type="checkbox"/> For Profit
<input type="checkbox"/> Other Nonprofit	<input type="checkbox"/> Individual
17. Applicable Cost Principles:	
<input checked="" type="checkbox"/> 10 CFR Part 600, "Department of Energy's Financial Assistance Rules"	
<input checked="" type="checkbox"/> OMB Circular A-87, "Cost Principles for State, Local, and Indian Tribal Governments"	
<input type="checkbox"/> OMB Circular A-21, "Cost Principles Applicable to Grants, Contracts, and Other Agreements with Educational Institutions" (applies to public and private colleges and universities)	
<input type="checkbox"/> Title 45 CFR Part 74, Appendix E, "Principles of Determining Costs Applicable to Research and Development Grants and Contracts with Hospitals" (applies to nonprofit and for profit hospitals)	
<input type="checkbox"/> OMB Circular A-122, "Cost Principles Applicable to Grants, Contracts and Other Agreements with Nonprofit Organizations" (applies to nonprofit organizations and individuals)	
<input type="checkbox"/> Title 48 CFR Subpart 31.2, "Contracts with Commercial Organizations," as supplemented by 48 CFR Subpart 931.2 (applies to nonprofit organizations not covered by OMB Circular A-122 and to all commercial organizations not covered by the cost principles above)	
18. Audits: <input checked="" type="checkbox"/> OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations"	
19. Project Status Report(s): <input checked="" type="checkbox"/> Quarterly <input checked="" type="checkbox"/> Final	
20. Financial Status Report(s): <input checked="" type="checkbox"/> Quarterly <input checked="" type="checkbox"/> Final	

21. Award Contents: This award consists of this form plus the following items:

<input checked="" type="checkbox"/> 1. Appendix A – Special Terms and Conditions	<input checked="" type="checkbox"/> 4. Appendix D – EECBG Financial Status Report
<input checked="" type="checkbox"/> 2. Appendix B – Specific Terms and Conditions	<input checked="" type="checkbox"/> 5. Appendix E – EECBG Quarterly Payments/Jobs Report
<input checked="" type="checkbox"/> 3. Appendix C – EECBG Project Status Report	<input checked="" type="checkbox"/> 6. Appendix F – EECBG Annual Federal Funding Report

22. REMARKS

23. Awarded by the Nebraska Energy Office:

 Signature of Authorized Official <b>Ginger Langemeier</b> Name (Typed or Printed) <b>Director</b> Title	7/9/2010 Date (402) 471-2867 Telephone ginger.langemeier@nebraska.gov Email
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24. Evidence of Recipient Acceptance:  
 By signing below, the Authorized Official for the Recipient assures the Nebraska Energy Office, the State of Nebraska and the U.S. Department of Energy that the Recipient will comply with all the terms and conditions contained herein:

_____ Signature of Recipient's Authorized Official	_____ Date
_____ Name (Typed or Printed)	_____ Telephone
_____ Title	_____ Email

## APPENDIX A – Special Terms and Conditions

1. **Acceptance.** As evidenced by the signature of the authorized official (Block 24, page 1 of this Nebraska Energy Office – Financial Aid Agreement), the acceptance is also the assurance that the Recipient will comply with all terms and conditions of this Financial Aid Agreement (Aid Agreement). This financial assistance is based solely on the contents of this Aid Agreement and not on any representation, statement, inducement, or promise, whether oral or written, not specifically contained in this Aid Agreement. By signing (Block 24, page 1), the Recipient is further obligated to provide fiscal management and technical direction of the project, manage the funds with prudence and submit all required reports.
2. **Accounts and Records.** The Recipient agrees to maintain books, documents and other records pertaining to all costs and expenses incurred during the course of and for the duration of this Aid Agreement and for a period of three (3) years following the completion of this Aid Agreement. The Recipient will be prepared to support charges for salaries and wages by time, attendance, and payroll records. Any authorized representative of the **Nebraska Energy Office (the Energy Office)**, the **U.S. Department of Energy (the DOE)** and/or the Comptroller-General of the United States will have access, at all reasonable times, to records of the Recipient and/or Subrecipients(s) which are pertinent during the course of this Aid Agreement. The right of access may be exercised as long as the applicable records are retained by the Recipient or Subrecipients(s).
3. **Amendment.** Either the Energy Office or the Recipient may initiate an amendment to this Aid Agreement. Should the Recipient believe an amendment to this Aid Agreement is necessary, the Recipient must submit a written request to the Project Officer for the Energy Office (Block 15, page 1) on the Recipient's own behalf, or on behalf of any Subrecipient(s), for written approval from the Energy Office. Any amendment is effective only if it is in writing and signed by the Energy Office and the Recipient. The effective date of the amendment will be the date the Energy Office signs the revised document(s), unless otherwise specified in the amendment.
4. **American with Disabilities Act.** The Recipient agrees to comply with all applicable provisions of the *American with Disabilities Act*, Public Law 101-336.
5. **Assumption of Risks and Liabilities.** The Recipient will assume all risks and liabilities in connection with the performance of work funded by this Aid Agreement. The Recipient will be responsible for all claims, demands, actions or causes of action of whatever nature or character arising out of or by reason of the Recipient's or Subrecipient(s)' acts or omissions in the performance of the work. To the extent authorized by law, the Recipient will indemnify and hold harmless the Energy Office, its employees, agents or representatives, and the State of Nebraska from all claims, demands, or causes of action, arising out of or by reason of the execution or performance of the work provided for herein, (unless said claims, demands or causes of action are the direct result of acts of omission or commission on the part of the Energy Office, its employees, agents or representatives, or the State of Nebraska) and will be responsible for all costs and expenses incurred by the Energy Office, its employees, agents or representatives and the State of Nebraska derived there from.
6. **Aid Agreement Contents.** This Aid Agreement consists of the Nebraska Energy Office – Financial Aid Agreement (NEO-FAA), page 1 and the appendices which apply to this Aid Agreement as checked (Block 21 – Award Contents, page 1) and which are included.
  - a. The Nebraska Energy Office – Financial Aid Agreement, page 1 contains the following information:

<i>Block</i>	<i>Title</i>	<i>Description</i>
1.	Recipient	Name of the entity receiving financial assistance.
2.	Document Number	Number assigned by the Energy Office.
3.	Action Number	Number designates if new or when amended.
4.	Project Title	Title of the project.
5.	Project Period	Establishes the start and end date of the project.
6.	Description	Brief description of the purpose of the project.
7.	Purpose	Describes the purpose of the funding.
8.	FIN or SSN	Federal Identification Number (FIN) or Social Security Number (SSN) for the Recipient.
9.	Budget	Specifies the amount for each funding source.
10.	Total Project Budget	Represents the total amount from all funding sources.
11.	Type of Action	Designates whether the award is new or amended. If amended, designates whether the amount and/or duration is being increased or decreased.
12.	Funding Source(s)	Specifies the source of funding to the Energy Office.
13.	Withholding Until Final Report	Specifies, if applicable, the percentage and the amount of the award the Energy Office will withhold until the Energy Office approves the Final Report submitted by the Recipient.
14.	Project Officer for the Recipient	Describes the main project contact for the Recipient.
15.	Project Officer for the Energy Office	Describes the main project contact for the Energy Office.
16.	Recipient Type	Indicates the type of entity receiving financial assistance.
17.	Applicable Cost Principles	Specifies the applicable cost principles, rules and guidance the Recipient must follow for all expenditures related to the financial assistance.
18.	Audits	Specifies the audit requirements.
19.	Project Status Reports	Designates when project status reports are required.
20.	Financial Status Reports	Designates when financial status reports are required.
21.	Award Contents	Specifies the contents of the financial assistance award.
22.	Remarks	Includes comments not otherwise described elsewhere.
23.	Awarded by the Energy Office	Signature block for and information about the authorized official for the Energy Office.
24.	Evidence of Recipient Acceptance	Signature block for and information about the authorized official for the Recipient

- b. **Appendix A – Special Terms and Conditions** neither restates all the provisions of the applicable statutes and regulations, nor represents an exhaustive listing of all requirements applicable to this Aid Agreement. Rather, the special terms and conditions are emphasized by inclusion here because these are invoked with high frequency and violation of these terms and conditions is a matter of serious concern. Included in this Appendix are terms and conditions specific to the American Reinvestment and Recovery Act.
- c. **Appendix B – Specific Terms and Conditions** provide other terms and conditions unique to the Recipient and which are not otherwise included elsewhere in this award.
- d. **Appendix C – EECBG Project Status Report** describes the quarterly and final reporting requirements regarding the Scope for this award.
- e. **Appendix D – EECBG Financial Status Report** describes the quarterly and final reporting requirements regarding the Budget and actual costs for this award.
- f. **Appendix E – EECBG Quarterly Payments/Jobs Report** describes the quarterly and final reporting requirements regarding individual payments to vendors/contractors in excess of \$25,000 and the number of paid hours for retained jobs and new jobs.
- g. **Appendix F – EECBG Annual Federal Funding Report** describes the annual gross revenues and percentage of funding from federal sources.

7. **Availability of Data and Review of Work.** The Recipient agrees to make available to the Energy Office and the DOE, if applicable, all information obtained in connection with this Aid Agreement. The Energy Office and the DOE will have the right to review and observe, at any time, work in progress or completed under this Aid Agreement.
8. **Buy American-Made Equipment and Products.** It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available under this Aid Agreement should be American-made.
9. **Correspondence.** All correspondence or email should be addressed to the Project Officer for the Energy Office (Block 15, page 1).
10. **Copyrights and Use of Data.** The Recipient agrees to, and does hereby grant to the Energy Office, and to its officers, agents, servants and employees acting within the scope of their duties:
  - a. a royalty-free, nonexclusive, irrevocable license to reproduce, translate, publish, use and dispose of and to authorize others so to do, all copyrightable material first produced or composed in the performance of this Aid Agreement by the Recipient, its employees or any individual or concern specifically employed or assigned to originate and prepare such material; and
  - b. a license as aforesaid under any and all copyrighted or copyrightable works not first produced or composed by the Recipient in the performance of this Aid Agreement but which are incorporated in the material furnished under the Aid Agreement, provided that such license will be only to the extent the Recipient now has, or prior to completion or final settlement of the Aid Agreement may acquire, the right to grant such license without becoming liable to pay compensation to others solely because of such grant or Aid Agreement. The Recipient agrees that it will not knowingly include any material copyrighted by others in any written or copy written material furnished or delivered under this Aid Agreement without a license, or without the consent of the copyright owner, unless it obtains specific written approval for the inclusion of such copyrighted material.
11. **Cost-Share.** The Recipient must provide the cost-share identified in this Aid Agreement (Block 10, page 1). All cash cost-share must be verifiable from the Recipient's records. The cost-share must defray only the allowable costs of the project in accordance with the statutes, regulations, applicable cost principle(s) and other terms and conditions governing financial assistance awards.
12. **Decontamination and/or Decommissioning (D&D) Costs.** Notwithstanding any other provisions of this Aid Agreement, the United States Government (Government) shall not be responsible for, or have any obligation to the Recipient for (i) decontamination and/or decommissioning (D&D) of any of the Recipient's facilities, or (ii) any costs which may be incurred by the Recipient in connection with the D&D of any of its facilities due to the performance of the work under this Aid Agreement, whether said work was performed prior to or subsequent to the effective date of this Aid Agreement.
13. **Disclaimer Statement.** The Recipient will acknowledge the DOE for funding and include the following disclaimer statement on any materials produced with this Aid Agreement:

*"This material was prepared with the support of funds provided by the Nebraska Energy Office from the U.S. Department of Energy. However, any opinions, finding, conclusions or recommendations expressed herein are those of the author(s) and do not necessarily reflect the views of the U.S. Department of Energy or the Nebraska Energy Office."*
14. **Drug-Free Workplace.** The Recipient will comply with the provisions of the *Drug-Free Workplace Act of 1988* (Pub. L. 100-690, Title V, Subtitle B).

15. **Effect of Invalidity.** If any provision in this Aid Agreement is held in conflict with the laws of the State of Nebraska, or is otherwise declared to be invalid by a court in this state, such invalidity will be construed to affect only such portions as are declared invalid, and the remaining portions of the Aid Agreement will remain in effect and will be construed as if the invalid portions were not contained in this Aid Agreement.
16. **Federal, State, and Municipal Requirements.** The Recipient must obtain any required permits and comply with applicable federal, state, and municipal laws, codes, and regulations for work performed under this Aid Agreement.
17. **Intellectual Property Provisions and Contact Information.**
  - a. The intellectual property provisions applicable to this Aid Agreement are provided as an attachment to this Aid Agreement (if applicable). A list of all intellectual property provisions may be found at [www.gc.doe.gov/financial\\_assistance\\_awards.htm](http://www.gc.doe.gov/financial_assistance_awards.htm).
  - b. Questions regarding intellectual property matters should be referred to the DOE Award Administrator and the Patent Counsel designated as the service provider for the DOE office that issued the award. The IP Service Providers List is found at [www.gc.doe.gov/documents/Intellectual\\_Property\\_\(IP\)\\_Service\\_Providers\\_for\\_Acquisition.pdf](http://www.gc.doe.gov/documents/Intellectual_Property_(IP)_Service_Providers_for_Acquisition.pdf).
18. **Lobbying Restrictions.** By accepting funds under this Aid Agreement, the Recipient agrees that none of the funds obligated to the Aid Agreement shall be expended, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before Congress, other than to communicate to Members of Congress as described in 18 U.S.C. 1913. This restriction is in addition to those prescribed elsewhere in statute and regulation.
19. **Local Laws.** The Recipient agrees to comply with all applicable laws, codes and ordinances of state and of affected local government.
20. **Modification by Operation of Law.** This Aid Agreement is subject to such modifications as may be required by changes in federal or state law or regulation or court order. Any such required modification will be incorporated into this Aid Agreement by amendment.
21. **National Historic Preservation Act of 1966.** Prior to the expenditure of Federal funds to alter any structure or site, the Recipient is required to comply with the requirements of Section 106 of the National Historic Preservation Act (NHPA), consistent with the DOE's 2009 letter of delegation of authority regarding the NHPA. Section 106 applies to historic properties that are listed in or eligible for listing in the National Register of Historic Places. In order to fulfill the requirements of Section 106, the Recipient must contact the State Historic Preservation Officer (SHPO), and, if applicable, the Tribal Historic Preservation Officer (THPO), to coordinate the Section 106 review outlined in 36 CFR Part 800. SHPO contact information is available at: [www.ncshpo.org/find/index.htm](http://www.ncshpo.org/find/index.htm). THPO contact information is available at: [www.nathpo.org/map.html](http://www.nathpo.org/map.html).

Section 110(k) of the NHPA applies to the DOE funded activities. Recipient shall avoid taking any action that results in an adverse effect to historic properties pending compliance with Section 106. Recipient should be aware that the DOE Contracting Officer will consider the Recipient in compliance with Section 106 of the NHPA only after the Recipient has submitted adequate background documentation to the SHPO/THPO for its review, and the SHPO/THPO has provided written concurrence to the Recipient that it does not object to its Section 106 finding or determination. Recipient shall provide a copy of this concurrence to the DOE Contracting Officer.
22. **Nondiscrimination.** The Recipient agrees to comply with 10 CFR 1040 Nondiscrimination in Federally Assisted Programs, Title VI of the *Civil Rights Act of 1964* (Pub. L. 88-352), Section 401 of the *Energy Reorganization Act of 1974* (Pub. L. 93-438), Title IX of the Education Amendments of 1972, as amended, (Pub. L. 92-318, Pub. L.

93-568, and Pub. L. 94-482), Section 504 of the *Rehabilitation Act of 1973* (Pub. L. 93-112), the *Age Discrimination Act of 1975* (Pub. L. 94-135), *Title VIII of the Civil Rights Act of 1968* (Pub. L. 90-284), the *Department of Energy Organization Act of 1977* (Pub. L. 95-91), and the *Energy Conservation and Production Act of 1974*, as amended, (Pub. L. 94-385), and the *Nebraska Fair Employment Practice Act of 1976*, as amended. In accordance with the above laws and regulations, the Recipient assures that no person in the United States will, on the grounds of race, color, national origin, sex, age, or handicap, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity in which the Recipient receives Federal and/or State assistance from the Energy Office and/or the DOE.

23. **Officer(s) Not to Benefit.** No officer or employee of the Energy Office will participate in any decision relating to this Aid Agreement that affects his or her personal interest or the interest of any corporation, partnership or association in which he or she has a direct or indirect interest; or has any interest, direct or indirect, in this award.
24. **Permits And Responsibilities.** The Recipient will be responsible for obtaining any necessary licenses and/or permits and for complying with applicable federal, state, and municipal laws, codes, and regulations, in connection with Appendix E – Project Summary and Budget Detail. The Recipient will also take proper safety and health precautions to protect the workers, the public, the environment, and property.
25. **Prior Approvals.** The Recipient agrees to obtain prior written approval from the Energy Office on all materials produced before going to final production and distribution. All requests for prior approval must be submitted in writing – letter, facsimile or e-mail – to the Project Officer for the Energy Office (Block 15, page 1) by an individual authorized to act for the Recipient organization.
26. **Public Access To Information.** The Recipient recognizes that any documents it submits to the Energy Office or the DOE under this award are subject to public disclosure under the *Freedom of Information Act*, as amended, and the DOE’s Implementing Regulations (10 CFR 1004). The Act requires public access to information in the DOE’s possession, unless said information is protected under an exemption to the Act and does not require Recipients, their subRecipients or their contractors to permit public access to their records. An exemption to the Act protects confidential or proprietary commercial information, personnel information, financial information, and trade secrets submitted by the Recipient, provided such information was not previously available to the public. Prior to responding to a request for the Recipient’s information in the possession of the Energy Office or DOE, the Energy Office will obtain the Recipient’s opinions on whether the information is or should be exempted.
27. **Recycled Products.** Under the *Resource Conservation and Recovery Act*, Section 6002, any State agency or agency of a political subdivision of a State that is using appropriated Federal funds must comply with Section 6002. Section 6002 requires preference is given in procurement programs to the purchase of specific products containing recycled materials identified in the guidelines developed by the Environmental Protection Agency (EPA). Accordingly, State and local institutions of higher education, hospitals, and non-profit organizations that receive direct Federal awards or other Federal funds will give preference in their procurement programs funded with Federal funds to the purchase of recycled products.
28. **Reporting.** The Recipient is required to submit reports as designated on page 1 in Block 19 – Project Status Report(s) and Block 20 – Financial Status Report(s), together with Block 21 – EECBG Quarterly Payments/ Jobs Report and EECBG Annual Federal Funding Report; and any additional reports that may be identified as necessary by the Energy Office during the Project Period.
  - a. **Project Status Reports** – The format is in Appendix C – EECBG Project Status Report.
    - 1) **Quarterly** – When “Quarterly” is checked in Block 19 – Project Status Report(s), the Recipient will submit the completed report to the Energy Office in January, April, July and October of each year the award is in effect. Quarterly Project Status Reports will be submitted **on or before the fifteenth (15<sup>th</sup>) day of the month** following the quarter reported. Each Quarterly Report must include, but need not be limited to:
      - a) activities completed for the quarterly project period;
      - b) an assessment of the project’s progress to date;

- c) an assessment of the project work yet to be completed; and
  - d) an estimate of when the project will be completed.
- 2) **Final** – When “Final” is checked in Block 19, the Recipient will complete the report and check “Final” on the form found in Appendix C. The Recipient must submit the Final Project Status Report within 60 days after the project End Date (Block 5, page 1).
- b. **Financial Status Reports** – The format is in Appendix D – EECBG Financial Status Report.
- 1) **Quarterly** – When “Quarterly” is checked in Block 20 – Financial Status Report(s), the Recipient will submit the complete report to the Energy Office in January, April, July and October of each year the award is in effect. Quarterly Financial Status Reports will be submitted **on or before the fifteenth (15<sup>th</sup>) day of the month** following the quarter reported. Each Quarterly Report will include, but need not be limited to:
    - a) actual expenditures for the quarterly project period;
    - b) total expenditures to date; and
    - c) unexpended balances for all fund types identified in Block 10 – Budget.
  - 2) **Final** – When “Final” is checked in Block 20, the Recipient will complete the report and check “Final” on the form found in Appendix D. The Recipient must submit the Final Financial Status Report within 60 days after the project End Date (Block 5, page 1).
- c. **Quarterly Payments/Jobs Reports** – The format is in Appendix E – EECBG Quarterly Payments/Jobs Report.
- 1) **Quarterly** – The Recipient will submit the complete report to the Energy Office in January, April, July and October of each year the award is in effect. Quarterly Payment/Jobs Reports will be submitted **on or before the fifth (5<sup>th</sup>) day of the month** following the quarter reported. Each Quarterly Report will include, but need not be limited to:
    - a) one-time payments made to individual vendors of \$25,000 or more;
    - b) number of hours paid with EECBG funds for jobs retained; and
    - c) number of hours paid with EECBG funds for new jobs created.
  - 2) **Final** – A final report is not required.
- d. **Annual Federal Funding Report** – The format is in Appendix F – EECBG Annual Federal Funding Report.
- 1) **Initial Report** – The Recipient will submit the complete report to the Energy Office immediately upon Recipient’s execution of the Aid Agreement.
  - 2) **Annually** – The Recipient will submit the complete report to the Energy Office **on or before January 31** every fiscal year during the Project Period. Each Report will include, but need not be limited to:
    - a) annual gross revenues from federal sources; and
    - b) percentage of funding from federal sources.
  - 3) **Final** – A final report is not required.
- e. **Notice Regarding Reporting Requirements** – The Recipient’s failure to comply with the reporting requirements will be considered a material noncompliance with the terms and conditions of this Aid Agreement. Noncompliance may result in withholding of future payments, suspension, or termination of the current Aid Agreement, and withholding of future aid agreements. A willful failure to perform, a history of failure to perform or of unsatisfactory performance of this Aid Agreement may also result in the Energy Office precluding the Recipient from future awards.
29. **Resolution of Conflicting Conditions.** Any apparent inconsistency between Federal statutes and regulations and the terms and conditions contained in this Aid Agreement must be referred to the DOE Contracting Officer for guidance.
30. **Resolution of Dispute.** The *State Contract Claims Act* is the exclusive remedy for resolving contract claims against the State of Nebraska. Any claims will follow the procedure set forth in the *State Contract Claims Act*, Rev. Stat. §§ 81-8,302 to 81-8,306 (1996).

31. **Site Visits.** The DOE's and the Energy Office's authorized representatives have the right to make site visits at reasonable times to review project accomplishments and management control systems and to provide technical assistance, if required. The Recipient must provide, and must require a Subrecipient to provide, reasonable access to facilities, office space, resources, and assistance for the safety and convenience of the government representatives in the performance of their duties. All site visits and evaluations must be performed in a manner that does not unduly interfere with or delay the work.
32. **Statement of Federal Stewardship.** The DOE and the Energy Office will exercise normal Federal stewardship in overseeing the project activities performed under this award. Stewardship activities include, but are not limited to, conducting site visits; reviewing performance and financial reports; providing technical assistance and/or temporary intervention in unusual circumstances to correct deficiencies, which develop during the project; assuring compliance with terms and conditions; and reviewing technical performance after project completion to ensure that the award objectives have been accomplished.
33. **Suspension.** The Energy Office may suspend this Aid Agreement if the Recipient fails to comply with any of its terms or conditions. Any notice of suspension from the Energy Office must be in writing to the Recipient. Should the Energy Office suspend this Aid Agreement, the Energy Office may withhold further payments and prohibit the Recipient from incurring additional obligations until such time corrective action(s) are taken by the Recipient or a decision is made by the Energy Office to terminate the Aid Agreement. The Energy Office may allow such necessary and proper costs which the Recipient could not reasonably avoid during the period of suspension provided such costs were necessary and reasonable for the conduct of the project. The Recipient will be given thirty (30) working days from the receipt of the written notice to remedy the Aid Agreement violations (or in the case of a violation not curable within thirty (30) days, Recipient will be given thirty (30) working days to commence to remedy the same and such time period shall be extended so long as Recipient proceeds diligently to complete the remedy thereof). Failure on the part of the Recipient to remedy such violations will give the Energy Office the right to suspend the Aid Agreement.
34. **Termination.** The Energy Office may terminate this Aid Agreement if the Recipient violates any of its terms or conditions. The Energy Office has the right to terminate this Aid Agreement for cause by giving written notice to the Recipient of such termination and specifying the effective date. The date of the written notice will be at least thirty (30) days before the effective date of such termination. The Recipient will be given thirty (30) working days from the receipt of the written notice to remedy the Aid Agreement violations (or in the case of a violation not curable within thirty (30) days, Recipient will be given thirty (30) working days to commence to remedy the same and such time period shall be extended so long as Recipient proceeds diligently to complete the remedy thereof). Failure on the part of the Recipient to remedy such violations will give the Energy Office the right to terminate the Aid Agreement. In the event of termination, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports or other material prepared by the Recipient will, at the option of the Energy Office, become the property of the Energy Office. The Recipient will be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials.
35. **Transfer of Work.** The Recipient will not transfer or assign any part or portion of the work on this Aid Agreement without the prior written consent of the Energy Office.
36. **Waste Stream Conditions.** The Recipient shall develop a waste management plan addressing waste generated by the project funded by the Aid Agreement. This waste management plan will describe the plan to dispose of any sanitary or hazardous waste (e.g., construction and demolition debris, old light bulbs, lead ballasts, lead paint, piping, roofing material, discarded equipment, debris, and asbestos) generated as a result of the proposed Project. The Recipient shall make the waste management plan and related documentation available to the Energy Office and/or DOE upon request, (for example, during a post-award audit). The Recipient shall ensure that the Project complies with all Federal, state and local regulations for waste disposal.



37. **Special Provisions Relating to Work Funded Under the American Recovery and Reinvestment Act of 2009.**

- a. **Preamble** – The American Recovery and Reinvestment Act of 2009, Pub. L. 1115 (the Recovery Act) was enacted to preserve and create jobs and promote economic recovery, assist those most impacted by the recession, provide investments needed to increase economic efficiency by spurring technological advances in science and health, invest in transportation, environmental protection, and other infrastructure that will provide long-term economic benefits, stabilize State and local government budgets, in order to minimize and avoid reductions in essential services and counterproductive State and local tax increases. Recipients shall use grant funds in a manner that maximizes job creation and economic benefit.

The Recipient shall comply with all terms and conditions in the Recovery Act relating generally to governance, accountability, transparency, data collection and resources as specified in the Act itself and as discussed below.

Recipients should begin planning activities for their first tier Subrecipient(s)/Contractors, including obtaining a DUNS number (or updating the existing DUNS record), and registering with the Central Contractor Registration (CCR).

Be advised that Recovery Act funds can be used in conjunction with other funding as necessary to complete projects, but tracking and reporting must be separate to meet the reporting requirements of the Recovery Act and related guidance. For projects funded by sources other than the Recovery Act, Recipient must keep separate records for Recovery Act funds and ensure those records comply with the requirements of the Act.

The United States Government (Government) has not fully developed the implementing instructions of the Recovery Act, particularly concerning specific procedural requirements for the new reporting requirements. The Recipient will be provided these details as they become available. The Recipient must comply with all requirements of the Act. If the Recipient believes there is any inconsistency between Recovery Act requirements and current Aid Agreement terms and conditions, the issues will be referred to the DOE Contracting Officer for reconciliation.

- b. **Definitions** – For purposes of this clause, Covered Funds means funds expended or obligated from appropriations under the Recovery Act. Covered Funds will have special accounting codes and will be identified as Recovery Act funds in the Aid Agreement, cooperative agreement or TIA and/or modification using Recovery Act funds. Covered Funds must be reimbursed by April 30, 2012.

Non-Federal Employer means any employer with respect to Covered Funds – the contractor, subcontractor, grantee, or recipient, as the case may be, if the contractor, subcontractor, grantee, or recipient is an employer; and any professional membership organization, certification of other professional body, any agent or licensee of the Federal government, or any person acting directly or indirectly in the interest of an employer receiving Covered Funds; or with respect to Covered Funds received by a State or local government, the State or local government receiving the funds and any contractor or subcontractor receiving the funds and any contractor or subcontractor of the State or local government; and does not mean any department, agency, or other entity of the federal government.

- c. **Special Provisions** –

- 1) **Flow Down Requirement** – Recipients must include these special terms and conditions in any sub aid agreement.
- 2) **Segregation of Costs** – Recipients must segregate the obligations and expenditures related to funding under the Recovery Act. Financial and accounting systems should be revised as necessary to segregate, track, and maintain these funds apart and separate from other revenue streams. No part of the funds from

the Recovery Act shall be commingled with any other funds or used for a purpose other than that of making payments for costs allowable for Recovery Act projects.

- 3) **Prohibition on Use of Funds** – None of the funds provided under this Aid Agreement derived from the Recovery Act may be used by any State or local government, or any private entity, for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool.
- 4) **Access to Records** – With respect to each aid agreement awarded utilizing at least some of the funds appropriated or otherwise made available by the Recovery Act, any representative of an appropriate Inspector General appointed under section 3 or 8G of the Inspector General Act of 1988 (5 U.S.C. App.) or of the Comptroller General is authorized –
  - a) to examine any records of the contractor or grantee, any of its subcontractors or sub grantees, or any State or local agency administering such contract that pertain to, and involve transactions relation to, the subcontract, subcontract, grant, or sub grant; and
  - b) to interview any officer or employee of the contractor, grantee, sub grantee, or agency regarding such transactions.
- 5) **Publication** – An application may contain technical data and other data, including trade secrets and/or privileged or confidential information, which the applicant does not want disclosed to the public or used by the Government for any purpose other than the application. To protect such data, the applicant should specifically identify each page including each line or paragraph thereof containing the data to be protected and mark the cover sheet of the application with the following Notice as well as referring to the Notice on each page to which the Notice applies:
  - a) **Notice of Restriction on Disclosure and Use of Data** – The data contained in pages \_\_\_\_ of this application have been submitted in confidence and contain trade secrets or proprietary information, and such data shall be used or disclosed only for evaluation purposes, provided that if this applicant receives an award as a result of or in connection with the submission of this application, the DOE shall have the right to use or disclose the data here to the extent provided in the Aid Agreement. This restriction does not limit the Government’s right to use or disclose data obtained without restriction from any source, including the applicant.

Information about this Aid Agreement will be published on the Internet and linked to the website [www.recovery.gov](http://www.recovery.gov), maintained by the Accountability and Transparency Board. The Board may exclude posting contractual or other information on the website on a case-by-case basis when necessary to protect national security or to protect information that is not subject to disclosure under sections 552 and 552a of title 5, United States Code.
- 6) **Protecting State and Local Government and Contractor Whistleblowers** – The requirements of Section 1553 of the Act are summarized below. They include, but are not limited to:
  - a) **Prohibition on Reprisals** – An employee of any non-Federal employer receiving covered funds under the Recovery Act, may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing, including a disclosure made in the ordinary course of an employee’s duties, to the Accountability and Transparency Board, an inspector general, the Comptroller General, a member of Congress, a State or Federal regulatory or law enforcement agency, a person with supervisory authority over the employee (or other person working for the employer who has the authority to investigate, discover or terminate misconduct, a court or grant jury, the head of a Federal agency, or their representatives information that the employee believes is evidence of:

- a gross management of an agency contract or grant relating to Covered Funds;
  - a gross waste of Covered Funds;
  - a substantial and specific danger to public health or safety related to the implementation or use of Covered Funds;
  - an abuse of authority related to the implementation or use of Covered Funds; or
  - as violation of law, rule, or regulation related to an agency contract (including the competition for or negotiation of a contract) or grant, awarded or issued relating to Covered Funds.
- b) **Agency Action** – Not later than 30 days after receiving an inspector general report of an alleged reprisal, the head of the agency shall determine whether there is sufficient basis to conclude that the non-Federal employer has subjected the employee to a prohibited reprisal. The agency shall either issue an order denying relief in whole or in part or shall take one or more of the following actions:
- Order the employer to take affirmative action to abate the reprisal.
  - Order the employer to reinstate the person to the position the person held before the reprisal, together with compensation including back pay, compensatory damages, employment benefits, and other terms and conditions of employment that would apply to the person in that position if the reprisal had not been taken.
  - Order the employer to pay the employee an amount equal to the aggregate amount of all costs and expenses (including attorneys’ fees and expert witnesses’ fees) that were reasonably incurred by the employee for or in connection with, bringing the complaint regarding the reprisal, as determined by the head of a court of competent jurisdiction.
- c) **Nonenforceability of Certain Provisions Waiving Rights and Remedies or Requiring Arbitration** – Except as provided in a collective bargaining agreement, the rights and remedies provided to aggrieved employees by this section may not be waived by any agreement, policy, form, or condition of employment, including any predispute arbitration agreement. No predispute arbitration agreement shall be valid or enforceable if it requires arbitration of a dispute arising out of this section.
- d) **Requirement to Post Notice of Rights and Remedies** – Any employer receiving Covered Funds under the Recovery Act shall post notice of the rights and remedies as required therein. (Refer to section 1553 of the Recovery Act, [www.recovery.gov](http://www.recovery.gov), for specific requirements of this section and prescribed language for the notices.)
- 7) **False Claims Act** – Recipient and Subrecipient(s) shall promptly refer to the DOE or other appropriate Inspector General any credible evidence that a principal, employee, agent, contractor, subgrantee, subcontractor or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity or similar misconduct involving those funds.
- 8) **Information in Support of Recovery Act Reporting** – Recipient may be required to submit backup documentation for expenditures of funds under the Recovery Act including such items as timecards and invoices. Recipient shall provide copies of backup documentation at the request of the DOE Contracting Officer or designee.
- 9) **Availability of Funds** – Funds appropriated under the Recovery Act and obligated to this Aid Agreement are available for reimbursement of costs until **April 30, 2012**.

38. **Reporting and Registration Requirements Under Section 1512 of the Recovery Act.**

- a. This Aid Agreement requires the Recipient to complete projects or activities which are funded under the Recovery Act and to report on use of Recovery Act funds provided through this Aid Agreement. Information from these reports will be made available to the public.
- b. The reports are due no later than five calendar days after each calendar quarter in which the Recipient receives the Aid Agreement funded in whole or in part by the Recovery Act.
- c. Recipients and their Subrecipients must maintain current registrations in the Central Contractor Registration ([www.ccr.gov](http://www.ccr.gov)) at all times during which they have active federal awards funded with Recovery Act funds. A Dun and Bradstreet Data Universal Numbering System (DUNS) Number ([www.dnb.com](http://www.dnb.com)) is one of the requirements for registration in the Central Contractor Registration.
- d. The Recipient shall report the information described in section 1512(c) of the Recovery Act using the reporting instructions and data elements that will be provided online at [www.FederalReporting.gov](http://www.FederalReporting.gov) and ensure that any information that is pre-filled is corrected or updated as needed.

39. **Required Use of American Iron, Steel, and Manufactured Goods – Section 1605 of the Recovery Act.**

a. **Definitions** – As used in this Aid Agreement terms and conditions –

- 1) ***Manufactured good*** means a good brought to the construction site for incorporation into the building or work that has been –
  - Processed into a specific form and shape; or
  - Combined with other raw material to create a material that has different properties than the properties of the individual raw materials.
- 2) ***Public building and public work*** means a public building of, and a public work of, a governmental entity (the United States; the District of Columbia; commonwealths, territories, and minor outlying islands of the United States; State and local governments; and multi-State, regional, or interstate entities which have governmental functions). These buildings and works may include, without limitation, bridges, dams, plants, highways, parkways, streets, subways, tunnels, sewers, mains, power lines, pumping stations, heavy generators, railways, airports, terminals, docks, piers, wharves, ways, lighthouses, buoys, jetties, breakwaters, levees, and canals, and the construction, alteration, maintenance, or repair of such buildings and works.
- 3) ***Steel*** means an alloy that includes at least 50 percent iron, between .02 and 2 percent carbon, and may include other elements.

b. **Domestic preference** –

- 1) This Aid Agreement term and condition implements Section 1605 of the Recovery Act, by requiring that all iron, steel, and manufactured goods used in the project are produced in the United States except as provided in paragraph (b)(3) of this section and condition.
- 2) This requirement does not apply to the material listed by the Federal Government as follows:  
  
NONE.
- 3) The Aid Agreement official may add other iron, steel, and/or manufactured goods to the list in paragraph (b)(2) of this section and condition if the Federal Government determines that –

- The cost of the domestic iron, steel, and/or manufactured goods would be unreasonable. The cost of domestic iron, steel, or manufactured goods used in the project is unreasonable when the cumulative cost of such material will increase the cost of the overall project by more than 25 percent;
- The iron, steel, and/or manufactured good is not produced, or manufactured in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or
- The application of the restriction of section 1605 of the Recovery Act would be inconsistent with the public interest.

c. **Request for determination of inapplicability of Section 1605 of the Recovery Act –**

- 1) Any Recipient request to use foreign iron, steel, and/or manufactured goods in accordance with paragraph (b)(3) of this section shall include adequate information for Federal Government evaluation of the request, including –
  - a) A description of the foreign and domestic iron, steel, and/or manufactured goods;
  - b) Unit of measure;
  - c) Quantity;
  - d) Cost;
  - e) Time of delivery or availability;
  - f) Location of the project;
  - g) Name and address of the proposed supplier; and
  - h) A detailed justification of the reason for use of foreign iron, steel, and/or manufactured goods cited in accordance with paragraph (b)(3) of this section.
    - A request based on unreasonable cost shall include a reasonable survey of the market and a completed cost comparison table in the format in paragraph (d) of this section.
    - The cost of iron, steel, and/or manufactured goods material shall include all delivery costs to the construction site and any applicable duty.
    - Any Recipient request for a determination submitted after Recovery Act funds have been obligated for a project for construction, alteration, maintenance, or repair shall explain why the Recipient could not reasonably foresee the need for such determination and could not have requested the determination before the funds were obligated. If the Recipient does not submit a satisfactory explanation, the award official need not make a determination.
- 2) If the Federal Government determines after funds have been obligated for a project for construction, alteration, maintenance, or repair that an exception to section 1605 of the Recovery Act applies, the Aid Agreement official will amend the Aid Agreement to allow use of the foreign iron, steel, and/or relevant manufactured goods. When the basis for the exception is nonavailability or public interest, the amended Aid Agreement shall reflect adjustment of the Aid Agreement amount, redistribution of budgeted funds, and/or other actions taken to cover costs associated with acquiring or using the foreign iron, steel, and/or relevant manufactured goods. When the basis for the exception is the unreasonable cost of the domestic iron, steel, or manufactured goods, the Aid Agreement official shall adjust the Aid Agreement amount or redistribute budgeted funds by at least the differential established in 2 CFR 176.110(a).
- 3) Unless the Federal Government determines that an exception to section 1605 of the Recovery Act applies, use of foreign iron, steel, and/or manufactured goods is noncompliant with section 1605 of the Recovery Act.

- d. **Data.** To permit evaluation of requests under paragraph (b) of this section based on unreasonable cost, the Recipient shall include the following information and any applicable supporting data based on the survey of suppliers:

<b>FOREIGN AND DOMESTIC ITEMS COST COMPARISON</b>				
	<b>Description</b>	<b>Unit of measure</b>	<b>Quantity</b>	<b>Cost (dollars)*</b>
<i>Item 1:</i>				
	Foreign steel, iron, or manufactured good			
	Domestic steel, iron, or manufactured good			
<i>Item 2:</i>				
	Foreign steel, iron, or manufactured good			
	Domestic steel, iron, or manufactured good			

[List name, address, telephone number, email address, and contact for suppliers surveyed. Attach copy of response; if oral, attach summary.]

[Include other applicable supporting information.]

[\*Include all delivery costs to the construction site.]

**40. Wage Rate Requirements Under Section 1606 of the Recovery Act.**

- a. Section 1606 of the Recovery Act requires that all laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to the Recovery Act shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code.

Pursuant to Reorganization Plan No. 14 and the Copeland Act, 40 U.S.C. 3145, the Department of Labor has issued regulations at 29 CFR parts 1, 3, and 5 to implement the Davis-Bacon and related Acts. Regulations in 29 CFR 5.5 instruct agencies concerning application of the standard Davis-Bacon contract clauses set forth in that section. Federal agencies providing grants, cooperative agreements, and loans under the Recovery Act shall ensure that the standard Davis-Bacon contract clauses found in 29 CFR 5.5(a) are incorporated in any resultant covered contracts that are in excess of \$2,000 for construction, alteration or repair (including painting and decorating).

- b. For additional guidance on the wage rate requirements of section 1606, contact the Energy Office. Recipients of grants, cooperative agreements and loans should direct their initial inquiries concerning the application of Davis-Bacon requirements to a particular federally assisted project to the Federal agency funding the project. The Secretary of Labor retains final coverage authority under Reorganization Plan Number 14.

**41. Recovery Act Transactions Listed in Schedule of Expenditures of Federal Awards and Recipient Responsibilities for Informing Subrecipients.**

- a. To maximize the transparency and accountability of funds authorized under the Recovery Act as required by Congress and in accordance with 2 CFR 215.21 "Uniform Administrative Requirements for Grants and Agreements" and OMB Circular A-102 Common Rules provisions, Recipient agrees to maintain records that identify adequately the source and application of Recovery Act funds. OMB Circular A-102 is available at [www.whitehouse.gov/omb/circulars/a102/a102.html](http://www.whitehouse.gov/omb/circulars/a102/a102.html).
- b. For Recipients covered by the Single Audit Act Amendments of 1996 and OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations," Recipients agree to separately identify the expenditures for Federal awards under the Recovery Act on the Schedule of Expenditures of Federal Awards (SEFA) and the Data Collection Form (SF-SAC) required by OMB Circular A-133. OMB Circular A-133 is

available at [www.whitehouse.gov/omb/circulars/a133/a133.html](http://www.whitehouse.gov/omb/circulars/a133/a133.html). This shall be accomplished by identifying expenditures for Federal awards made under the Recovery Act separately on the SEFA, and as separate rows under Item 9 of Part III on the SF-SAC by CFDA number, and inclusion of the prefix "ARRA-" in identifying the name of the Federal program on the SEFA and as the first characters in Item 9d of Part III on the SF-SAC.

- c. Recipient agrees to separately identify to each Subrecipient, and document at the time of sub award and at the time of disbursement of funds, the Federal award number, CFDA number, and amount of Recovery Act funds. When a Recipient awards Recovery Act funds for an existing program, the information furnished to Subrecipient(s) shall distinguish the sub awards of incremental Recovery Act funds from regular sub awards under the existing program.
- d. Recipient agrees to require Subrecipient(s) to include on their SEFA information to specifically identify Recovery Act funding similar to the requirements for the Recipient SEFA described above. This information is needed to allow the Recipient to properly monitor Subrecipient expenditure of ARRA funds as well as oversight by the Federal awarding agencies, Offices of Inspector General and the Government Accountability Office.

#### 42. **Procurement.**

- a. **State** – When procuring property and services under an aid agreement, a State will follow the same policies and procedures it uses for procurements from its non-Federal funds. The State will ensure that every purchase order or other contract includes any clauses required by Federal statutes and executive orders and their implementing regulations. Other Recipient and Subrecipient(s) will follow paragraphs (b) through (i) in this section. 10 CFR 600.236 – <http://ecfr.gpoaccess.gov/cgi/t/text/textidx?c=ecfr&sid=1d87da29f6087f0251f78954c8888ff1&rgn=div8&view=text&node=10:4.0.1.3.9.3.20.23&idno=10>
- b. **Procurement Standard** – Recipient and Subrecipient(s) will use their own procurement procedures which reflect applicable State and local laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in this section.

#### 43. **Reporting Requirements.**

- a. **Requirements** – The reporting requirements for this Aid Agreement are identified on the Federal Assistance Reporting Checklist, DOE F 4600.2. Failure to comply with these reporting requirements is considered a material noncompliance with the terms of this Aid Agreement. Noncompliance may result in withholding of future payments, suspension, or termination of the current Aid Agreement, and withholding of future Aid Agreements. A willful failure to perform, a history of failure to perform, or unsatisfactory performance of this and/or other Aid Agreements, may also result in a debarment action to preclude future Aid Agreements by Federal agencies.
- b. **Dissemination of scientific/technical reports** – Scientific/technical reports submitted under this Aid Agreement will be disseminated on the Internet via the DOE Information Bridge ([www.osti.gov/bridge](http://www.osti.gov/bridge)), unless the report contains patentable material, protected data, or SBIR/STTR data. Citations for journal articles produced under the Aid Agreement will appear on the DOE Citations Database ([www.osti.gov/energycitations](http://www.osti.gov/energycitations)).
- c. **Restrictions** – Reports submitted to the DOE Information Bridge must not contain any Protected Personal Identifiable Information (PII), limited rights data (proprietary data), classified information, information subject to export control classification, or other information not subject to release.

- 44. **Retention and Access Requirements for Records.** The Recipient agrees to maintain books, documents and other records pertaining to all costs and expenses incurred during the course of this Aid Agreement for the duration of

this Aid Agreement and for a period of three (3) years following the completion of this Aid Agreement. The Recipient will be prepared to support charges for salaries and wages by time, attendance and payroll records. Any authorized representative of the Energy Office, the DOE and/or the Comptroller-General of the United States will have access, at all reasonable times, to records of the Recipient and/or Subrecipient(s) which are pertinent during the course of this award. The right of access may be exercised as long as the applicable records are retained by the Recipient or Subrecipients(s). 10 CFR 600.242 –

<http://ecfr.gpoaccess.gov/cgi/t/text/textidx?type=simple;c=ecfr;cc=ecfr;sid=4c22613d54c8ee557f9dc9d6015ec1c9;idno=10;region=DIV1;q1=600.242;rgn=div8;view=text;node=10%3A4.0.1.3.9.3.20.27>

Conform any advances of Aid Agreement funds to Subrecipients substantially to the same standards of timing and amount that apply to cash advances by Federal agencies (refer state to 10 CFR 600.221(c)).

45. **Nebraska EECBG Program Plan.** Recipient agrees to carry out all program activities in accordance with the Nebraska Energy Efficiency and Conservation Block Grant Program Plan issued in compliance with Title V, Subtitle E or the *Energy Independence and Security Act (EISA) of 2007* and approved by the U.S. Department of Energy on September 14, 2009.
46. **Davis Bacon Act And Contract Work Hours And Safety Standards Act.** The Recipient shall comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction Sub agreements as implemented through 29 CFR 5.5(a).”

**Definitions:** For purposes of this Section 46, Davis Bacon Act and Contract Work Hours and Safety Standards Act, the following definitions are applicable:

- (1) “Award” means any grant, cooperative agreement or technology investment agreement made with Recovery Act funds by the Department of Energy (DOE) to a Recipient. Such Award must require compliance with the labor standards clauses and wage rate requirements of the Davis-Bacon Act (DBA) for work performed by all laborers and mechanics employed by Recipients (other than a unit of State or local government whose own employees perform the construction) Subrecipients, Contractors and subcontractors.
- (2) “Contractor” means an entity that enters into a Contract. For purposes of these clauses, Contractor shall include (as applicable) prime contractors, Recipients, Subrecipients, and Recipients’ or Subrecipients’ contractors, subcontractors, and lower-tier subcontractors. “Contractor” does not mean a unit of State or local government where construction is performed by its own employees.”
- (3) “Contract” means a contract executed by a Recipient, Subrecipient, prime contractor or any tier subcontractor for construction, alteration, or repair. It may also mean (as applicable) (i) financial assistance instruments such as grants, cooperative agreements, technology investment agreements, and loans; and, (ii) Subawards, contracts and subcontracts issued under financial assistance agreements. “Contract” does not mean a financial assistance instrument with a unit of State or local government where construction is performed by its own employees.
- (4) “Contracting Officer” means the DOE official authorized to execute an Award on behalf of DOE and who is responsible for the business management and non-program aspects of the financial assistance process.
- (5) “Recipient” means any entity other than an individual that receives an Award of Federal funds in the form of a grant, cooperative agreement or technology investment agreement directly from the Federal Government and is financially accountable for the use of any DOE funds or property, and is legally responsible for carrying out the terms and conditions of the program and Award.



- (6) "Subaward" means an award of financial assistance in the form of money, or property in lieu of money, made under an award by a Recipient to an eligible Subrecipient or by a Subrecipient to a lower- tier Subrecipient. The term includes financial assistance when provided by any legal agreement, even if the agreement is called a contract, but does not include the Recipient's procurement of goods and services to carry out the program nor does it include any form of assistance which is excluded from the definition of "Award" above.
- (7) "Subrecipient" means a non-Federal entity that expends Federal funds received from a Recipient to carry out a Federal program, but does not include an individual that is a beneficiary of such a program.

**(a) Davis Bacon Act**

(1) Minimum wages.

- (i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3) ), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: *Provided*, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (a)(1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

- (ii)
  - (A) The Contracting Officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the Contract shall be classified in conformance with the wage determination. The Contracting Officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

- (1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and
  - (2) The classification is utilized in the area by the construction industry; and
  - (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.
- (B) If the Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the Contracting Officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the Contracting Officer to the Administrator of the Wage and Hour Division, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the Contracting Officer or will notify the Contracting Officer within the 30-day period that additional time is necessary.
- (C) In the event the Contractor, the laborers or mechanics to be employed in the classification or their representatives, and the Contracting Officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the Contracting Officer shall refer the questions, including the views of all interested parties and the recommendation of the Contracting Officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the Contracting Officer or will notify the Contracting Officer within the 30-day period that additional time is necessary.
- (D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii)(B) or (C) (A)a.i(C) of this section, shall be paid to all workers performing work in the classification under this Contract from the first day on which work is performed in the classification.
- (iii) Whenever the minimum wage rate prescribed in the Contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the Contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.
- (iv) If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, *Provided*, That the Secretary of Labor has found, upon the written request of the Contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.
- (2) Withholding. The Department of Energy or the Recipient or Subrecipient shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the Contractor under this Contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices,

trainees, and helpers, employed by the Contractor or any subcontractor the full amount of wages required by the Contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the Contract, the Department of Energy, Recipient, or Subrecipient, may, after written notice to the Contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) Payrolls and basic records.

- (i) Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.
- (ii)
  - (A) The Contractor shall submit weekly for each week in which any Contract work is performed a copy of all payrolls to the Department of Energy if the agency is a party to the Contract, but if the agency is not such a party, the Contractor will submit the payrolls to the Recipient or Subrecipient (as applicable), applicant, sponsor, or owner, as the case may be, for transmission to the Department of Energy. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime Contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the Department of Energy if the agency is a party to the Contract, but if the agency is not such a party, the Contractor will submit them to the Recipient or Subrecipient (as applicable), applicant, sponsor, or owner, as the case may be, for transmission to the Department of Energy, the Contractor, or the Wage and Hour Division of the Department of Labor for

purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the sponsoring government agency (or the Recipient or Subrecipient (as applicable), applicant, sponsor, or owner).

- (B) Each payroll submitted shall be accompanied by a “Statement of Compliance,” signed by the Contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the Contract and shall certify the following:
    - (1) That the payroll for the payroll period contains the information required to be provided under § 5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under § 5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;
    - (2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the Contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;
    - (3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the Contract.
  - (C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the “Statement of Compliance” required by paragraph (a)(3)(ii)(B) of this section.
  - (D) The falsification of any of the above certifications may subject the Contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 3729 of title 31 of the United States Code.
- (iii) The Contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the Department of Energy or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the Contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the Contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.
- (4) Apprentices and trainees -
- (i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his

or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the Contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a Contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the Contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

- (ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

- (iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended and 29 CFR part 30.
- (5) Compliance with Copeland Act requirements. The Contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this Contract.
- (6) Contracts and Subcontracts. The Recipient, Subrecipient, the Recipient's and Subrecipient's contractors and subcontractor shall insert in any Contracts the clauses contained herein in(a)(1) through (10) and such other clauses as the Department of Energy may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The Recipient shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of the paragraphs in this clause.
- (7) Contract termination: debarment. A breach of the Contract clauses in 29 CFR 5.5 may be grounds for termination of the Contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.
- (8) Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this Contract.
- (9) Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this Contract shall not be subject to the general disputes clause of this Contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the Recipient, Subrecipient, the Contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.
- (10) Certification of eligibility.
  - (i) By entering into this Contract, the Contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the Contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
  - (ii) No part of this Contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
  - (iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.
- (b) **Contract Work Hours and Safety Standards Act.** As used in this paragraph, the terms laborers and mechanics include watchmen and guards.
  - (1) Overtime requirements. No Contractor or subcontractor contracting for any part of the Contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

- (2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (b)(1) of this section the Contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.
- (3) Withholding for unpaid wages and liquidated damages. The Department of Energy or the Recipient or Subrecipient shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such contract or any other Federal contract with the same prime Contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.
- (4) Contracts and Subcontracts. The Recipient, Subrecipient, and Recipient's and Subrecipient's contractor or subcontractor shall insert in any Contracts, the clauses set forth in paragraph (b)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The Recipient shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (b)(1) through (4) of this section.
- (5) The Contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the Contract for all laborers and mechanics, including guards and watchmen, working on the Contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. The records to be maintained under this paragraph shall be made available by the Contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the Department of Energy and the Department of Labor, and the Contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

## APPENDIX B – Specific Terms and Conditions

1. **Publications.** As per the DOE:

- a. The Recipient is encouraged to publish or otherwise make publicly available the results of the work conducted under this Aid Agreement.
- b. An acknowledgement of Federal support and a disclaimer must appear in the publication of any material, whether copyrighted or not, based on or developed under this project, as follows:

**Acknowledgement:** *“This material is based upon work supported by the U.S. Department of Energy under NEO Grant # DE-EE-0000667.”*

**Disclaimer:** *“This report was prepared as an account of work sponsored by an agency of the United States Government. Neither the United States Government nor any agency thereof, nor any or their employees, makes any warrant, express or implied, or assumes any legal liability or responsibility for the accuracy, completeness, or usefulness of any information, apparatus, product, or process disclosed, or represents that its use would not infringe privately owned rights. Reference herein to any specific commercial product, process, or service by trade name, trademark, manufacturer, or otherwise does not necessarily constitute or imply its endorsement, recommendation, or favoring by the United States Government or any agency thereof. The views and opinions of authors expressed herein do not necessarily state or reflect those of the United States Government or any agency thereof.”*

2. **Purpose.** The purpose of this Aid Agreement is to provide funds to *the City of Lexington* for Energy Efficiency Retrofits (Block 4, page 1).
3. **Scope.** Funds will be used to implement the tasks and activities as described in the Recipients’ Application for Federal Assistance SF-424-NE submitted to the Energy Office and negotiated as a result of the review process. This Aid Agreement incorporates, by reference and by virtue of this statement, the following previously submitted original RFP document, and Recipient’s signed, negotiated Application for Federal Assistance SF-424-NE.

The Recipient will have overall responsibility to complete the following activities:

- Rehabilitation of damaged areas on roof
- Installation of 3 inches of ISO board, 65,000 sq. ft.
- Installation of 2 inches of polyurethane foam, 65,000 sq. ft.
- Installation of a top coat and base coat, 65,000 sq. ft.

Recipient will ensure that all the above-specified equipment and products purchased and acquired for the project(s) are American-Made (except as exempted in DOE’s “categorical waiver”), or else identify an alternative that meets the minimum standards of the program, then request and receive the Energy Office’s written approval.

4. **Reports.** The Recipient is required to submit reports as identified (Blocks 19, 20 and 21, page 1), containing the information required by the DOE described in:
  - a) Appendix C – EECBG Payments/Jobs Report,
  - b) Appendix D – EECBG Fiscal Year-End Report,
  - c) Appendix E – EECBG Quarterly Payments/Jobs Report, and
  - d) Appendix F – EECBG Annual Federal Funding Report.



5. **Ten Percent (10%) Withholding Until Final Report.** The Energy Office reserves the right to withhold ten percent (10%) (Block 13, page 1) of the total award funds until Recipient has submitted all required reports, and complied with all requirements set out in this Aid Agreement.
6. **Budget.** The budget for this award is as follows:

<b>Opportunity Center Roof &amp; Insulation</b>			
<b>Object Class Category</b>	<b>Energy Office (Recover Act)</b>	<b>Recipient Match</b>	<b>Total Project</b>
Personnel	\$0.00	\$0.00	\$0.00
Fringe Benefits	0.00	0.00	0.00
Travel	0.00	0.00	0.00
Equipment (>\$5,000) – Total	0.00	0.00	0.00
Supplies	142,300.00	61,700.00	204,000.00
Contractual	107,700.00	40,800.00	148,500.00
Construction (not allowed)	N/A	0.00	0.00
Other Direct Costs	0.00	0.00	0.00
<b>Total</b>	<b>\$250,000.00</b>	<b>\$102,500.00</b>	<b>\$352,500.00</b>

- a. Federal funds are authorized only for costs directly associated with the scope of this Aid Agreement and may be used to cover costs such as personnel, fringe benefits, supplies, and direct charges related to this project, *as indicated in the project budget.*
  - b. Federal funds will not be used to purchase food or beverages. Alcohol, by the package or by the drink, is not allowable.
  - c. There is a cost share requirement for this project. The Recipient agrees to provide leveraged funds as indicated in the project budget. In-kind cost share is not permitted.
7. **Request for Payment.** To request payment, the Recipient:
    - a. Will not request payment for any expenses incurred before the “Start Date” or after the “End Date” specified in Block 5 – Project Period (Aid Agreement, page 1). **Any costs incurred prior to the signing of this Aid Agreement will not be eligible for reimbursement.**
    - b. Will submit a written request to the Energy Office for reimbursement of actual expenses paid or incurred. The Recipient’s written request must include the form provided by the Energy Office together with a description of the completed work for which reimbursement is requested. Supporting documentation of the costs must be included.
    - c. May request reimbursement at any time, but not more frequently than once a month.
    - d. Will provide documentation of personnel costs, which include the position title, rate per hour, number of actual hours and total cost (if applicable). Personnel costs include salary and fringe benefits.
  8. **Review of Costs.** The Energy Office will review all costs and documentation submitted by the Recipient. The Energy Office reserves the right to question the costs submitted and deny payment of costs that are not eligible, unreasonable or are not properly documented.

9. **Use of Program Income.** If you earn program income during the project period as a result of this award, you may add the program income to the funds committed to the award and used to further eligible project objectives.
10. **Award Document.** The Recipient and the Energy Office acknowledges that additional terms and conditions from the DOE are expected to be issued and will become part of this Aid Agreement. These terms and conditions may include but not be limited to:
  - a. Reporting, tracking and segregation of incurred costs,
  - b. Reporting on job creation and preservation, and
  - c. Publication of information on the Internet.
11. **Tracking, Reporting, and Record-Keeping.** The tracking and reporting of Recovery Act funds must be kept completely separate from other records. Financial and accounting systems must be revised as necessary to segregate, track, and maintain these funds apart and separate from other revenue streams. No part of the funds from the Recovery Act shall be commingled with any other funds or used for a purpose other than that of making payments for costs allowable under Recovery Act projects.
12. **Site Visits.** The Recipient acknowledges that both DOE and Energy Office authorized representatives have the right to make site visits at reasonable times to review project accomplishments and management control systems and to provide technical assistance, if required. The Recipient agrees to provide reasonable access to facilities, office space, resources, and assistance for the safety and convenience of the government representatives in the performance of their duties. All site visits and evaluations will be performed in a manner that does not unduly interfere with or delay the work.
13. **Federal, State and Municipal Requirements.** The Recipient agrees to obtain any required permits and comply with applicable federal, state and municipal laws, codes, and regulations for work performed under this award.
14. **Verification of Immigrant Status.** The Recipient is required and hereby agrees to use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program authorized by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324a, known as the Systematic Alien Verification for Entitlements (SAVE) Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee.

# Appendix C – EECBG Project Status Report<sup>1</sup>

<b>Recipient:</b> <i>City of Lexington</i>		<b>Date:</b>
<b>Project Description:</b> <i>Opportunity Center Roof &amp; Insulation</i>		<b>Award Number:</b> <i>09/10-E089</i> <b>Action Number:</b> <i>A-01</i>
<b>Project Director:</b> <b>Phone:</b> <b>Email:</b>		<b>Name of Person Preparing Report:</b> <b>Phone:</b> <b>Email:</b>
<input type="checkbox"/> <i>Quarterly Report</i>		<input type="checkbox"/> <i>Final Report</i>
<b>Reporting Period Covered:</b> <input type="checkbox"/> January 1 – March 31 <input type="checkbox"/> April 1 – June 30 <input type="checkbox"/> July 1 – September 30 <input type="checkbox"/> October 1 – December 31	<b>Due Date:</b> April 15 July 15 October 15 January 15	<b>Due sixty (60) days from project "End Date"</b>
<i>For quarterly report, complete the following information, using separate sheets as needed:</i>		
<b>Q1 - Describe the work accomplished</b> during this project period including major activities, significant results, major findings, or conclusions, key outcomes, or other achievements. <sup>2</sup>		
<b>Q2 - Describe any variations from the planned activity</b> and/or any problems encountered that have resulted in project delays. Include any changes in approach or aims and reasons for change. Describe actions taken or plans to resolve them. <sup>3</sup>		
<b>Q3 - Schedule Status:</b> Provide a brief overview of work activities planned for the next quarterly program period. List milestones, anticipated completion dates and actual completion dates. This should coincide with your EECBG Revised Milestone Timeline. You must use this EECBG Project Status Report to report any schedule and/or budget variance.		
<b>Q4 - Report any absence or changes</b> of key personnel or changes in consortium/teaming arrangements.		
<b>Q5 - Attach any completed work products</b> or documentation, such as press releases, news clippings and publications, including: a. Publications (list journal name, volume, issue); conference papers; or other public release of results. Attach or send copies of public release to the Project Officer identified in block 15 on page 1 of the Financial Aid Agreement. b. Website or other Internet sites that reflect the results of this project c. Networks or collaborations fostered d. Inventions/Patent applications e. Other products, such as data or databases, physical collections, audio or video, software or netware, models, educational aid or curricula, instruments or equipment.		

<sup>1</sup> Requests for funds will not be processed if required reports are past due.

<sup>2</sup> This section should not contain any proprietary data or other information not subject to public release. If such information is important to reporting progress, do not include the information, but include a note in the report advising the reader to contact the Principal Investigator or the Project Director for further information.

<sup>3</sup> Significant changes to the objectives and scope of work require prior approval by the Project Officer.

A fillable version of this form is online at <http://www.neo.ne.gov/grants/EECBG-awards.htm>.

<b>Required Recovery Act Reporting (for every reporting period)</b>		
<b>Job creation/retention (report actual FTE's as result of investment of EECBG Recovery Act funds)</b>		
<i>Jobs created &amp; retained</i>	<i>Projected(in project application)</i>	<i>Actual</i>
<b>Energy Savings (kWh equivalents)</b>		
<i>Annual reduction in electricity consumption (MWh), by sector</i>		
<b>Energy Cost Savings</b>		
<i>Dollars saved</i>		
<b>Renewable Energy Capacity and Generation</b>		
<i>Amount of wind-powered electric generating capacity installed (MW)</i>		
<i>Amount of electricity generated from wind systems (MWh)</i>		
<b>Emissions Reductions</b>		
<i>Amount of green house gases reduced (CO2 equivalents)</i>		
<i>Amount of criteria air pollutants reduced (tons)</i>		
<b>Plan Metrics</b>		
<i>Number of buildings retrofitted</i>		
<i>Square footage retrofitted</i>		
<i>Number of street lights purchased and installed</i>		
<i>Number of traffic signals purchased and installed</i>		
<i>Number of exit signs purchased and installed</i>		
<i>Number of HVAC systems purchased and installed</i>		

<b>For Final Report, complete the following information:</b>
F1 - Summarize the tasks completed.
F2 - Evaluate the project. For example: Did the project meet the goals and objectives? What were the results?
F3 - Attach any work products or documentation of activities not previously submitted with the quarterly reports (refer to Q5).

A fillable version of this form is online at <http://www.neo.ne.gov/grants/EECBG-awards.htm>.

# Appendix D – EECBG Financial Status Report

<b>Recipient:</b> <i>City of Lexington</i>		<b>Date:</b>		
<b>Project Description:</b> <i>Opportunity Center Roof &amp; Insulation</i>		<b>Award Number:</b> <i>09/10-E089</i> <b>Action Number:</b> <i>A-01</i>		
<b>Project Director:</b> <b>Phone:</b> <b>Email:</b>		<b>Name of Person Preparing Report:</b> <b>Phone:</b> <b>Email:</b>		
<input type="checkbox"/> <i>Quarterly Report</i>		<input type="checkbox"/> <i>Final Report</i>		
<b>Reporting Period Covered:</b> <input type="checkbox"/> January 1 – March 31 <input type="checkbox"/> April 1 – June 30 <input type="checkbox"/> July 1 – September 30 <input type="checkbox"/> October 1 – December 31		<b>Due Date:</b> April 15 July 15 October 15 January 15		
<b>Due sixty (60) days from project "End Date"</b>				
<i>For quarterly report, include narrative to explain/support information, as needed.</i>				
<i>For final report, evaluate the actual expenditures for all budget categories against the authorized budget. Explain variances.</i>				
Expense Category	Authorized Budget	Expenses this Quarter	Total Expenses to Date	Unexpended Balance
<b>Energy Office EECBG Financial Assistance</b>				
Personnel – Salary				
Personnel – Fringe Benefits				
Travel				
Equipment (>\$5,000) – Total				
Supplies				
Contractual (Not Allowed)	N/A	N/A	N/A	N/A
Construction				
Other Direct Cost				
<b>Subtotal</b>				
<b>Recipient Cost-Share :</b>				
Personnel – Salary				
Personnel – Fringe Benefits				
Travel				
Equipment (>\$5,000) – Total				
Supplies				
Contractual				
Construction				
Other Direct Cost				
<b>Subtotal</b>				
<b>Project Total</b>	\$			

A fillable version of this form is online at <http://www.neo.ne.gov/grants/EECBG-awards.htm>.



## Appendix F – EECBG Annual Federal Funding Report – NEO Grant #DE-EE000067

<i>Recipient: City of Lexington</i>			<i>Date:</i>		
<i>Project Description: Opportunity Center Roof &amp; Insulation</i>			<i>Award Number: 09/10-E089</i> <i>Action Number: A-01</i>		
<i>Project Director:</i> <i>Phone:</i> <i>Email:</i>			<i>Name of Person Preparing Report:</i> <i>Phone:</i> <i>Email:</i>		
<i>Reporting Period Covered:</i> <input type="checkbox"/> Initial Report <input type="checkbox"/> January 1 – December 31, 2010 <input type="checkbox"/> January 1 – December 31, 2011		<i>Due Date:</i> Immediately upon signing Aid Agreement January 31, 2011 January 31, 2012	<b>NOTE: Only one report each due date is required per Recipient/Award, even if award includes multiple projects.</b>		
Recipient Information			EECBG Award Information		
Recipient DUNS #	EECBG Award #09/10-	Recipient Congressional District	Amount of EECBG Award	Total EECBG Funds Disbursed (For NEO Use Only)	EECBG Award Date
15 628 4986	E089	3rd	\$250,000.00		7/1/10
Level of Federal Funding					
In Recipient's Last Fiscal Year:					
Annual gross revenues from all federal sources were:			<input type="checkbox"/> Less than \$25,000,000		<input type="checkbox"/> \$25,000,000 or More
Percentage of funding from all federal sources was:			<input type="checkbox"/> Less than 80%		<input type="checkbox"/> 80% or More

A fillable version of this form is online at <http://www.neo.ne.gov/grants/EECBG-awards.htm>.

