

# ENERGIZE MISSOURI INDUSTRIES

MISSOURI DEPARTMENT OF NATURAL RESOURCES



MISSOURI  
DEPARTMENT OF  
NATURAL RESOURCES



**BEST PRICE**   
Energy Efficiency

## PROGRAM GUIDELINES

AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009

STATE ENERGY PROGRAM

### SUBMITTAL DEADLINE:

July 15, 2010

4:00 PM CDT

**MAIL FORM TO:**

MISSOURI DEPARTMENT OF NATURAL RESOURCES

DIVISION OF ENERGY

1101 RIVERSIDE DRIVE

P.O. BOX 176

JEFFERSON CITY, MO 65102-0176

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## I. Introduction

The Missouri Department of Natural Resources (the department) protects, preserves and enhances Missouri’s natural, cultural and energy resources. As the state energy office, the Division of Energy at the department is a non-regulatory state entity that works to protect the environment and stimulate the economy through energy efficiency and renewable energy resources and technologies. To support the development of the energy efficiency and conservation industry, the department provides information, resources and financial incentives to implement energy efficiency projects.

In June 2009, the U.S. Department of Energy (U.S. DOE) approved Missouri’s application under the U.S. Department of Energy's State Energy Program (SEP) for \$57,393,000 in American Recovery and Reinvestment Act funding for energy efficiency and renewable energy programs.

The Missouri Department of Natural Resources has set aside a portion of SEP funds for an industrial program which is marketed under the umbrella name *Energize Missouri Industries*. *Energize Missouri Industries* is further divided into two program components, one of which is the Best-Price Energy Efficiency Program.

These program guidelines are meant to provide guidance to potential applicants on how the Best-Price Energy Efficiency Program will be implemented.

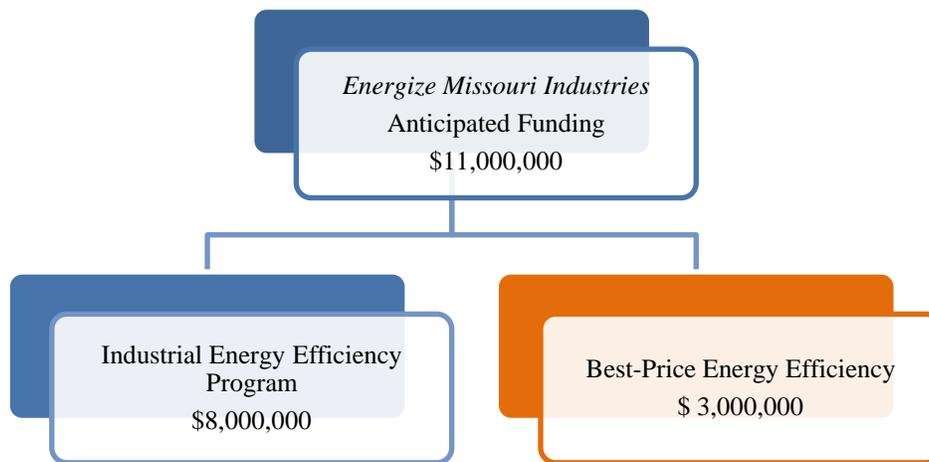


Figure 1. *Energize Missouri Industries* Funding Allocation

### 1. American Recovery and Reinvestment Act of 2009

On Feb. 17, 2009, President Obama signed into law the American Recovery and Reinvestment Act of 2009 (Public Law 111-5). The stated purposes of the ARRA are to preserve and create jobs; 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; and to stabilize state and local government budgets.

## **2. The State Energy Program**

Congress created the U.S. DOE State Energy Program in 1996 by consolidating two other programs: the State Energy Conservation Program (SECP) and the Institutional Conservation Program (ICP). Both programs went into effect in 1975.

The State Energy Program provides grants to states and U.S. territories to promote energy conservation and reduce the growth of energy demand in ways that are consistent with national energy goals. The SEP is the only U.S. DOE sponsored activity that encompasses renewable energy and energy efficiency technologies and addresses all sectors of the economy.

The goals established for the State Energy Program are:

- Increase energy efficiency to reduce energy costs and consumption for consumers, businesses and government.
- Reduce reliance on imported energy.
- Improve the reliability of electricity and fuel supply and the delivery of energy services.
- Reduce the impacts of energy production and use on the environment.

The Missouri Department of Natural Resources was allocated a total of \$57,393,000 in SEP funds under the ARRA, out of which \$3,000,000 is set-aside to the Best-Price Energy Efficiency Program.

## **3. Program Goals**

The purpose of the Best-Price Energy Efficiency Program is to provide industries with the opportunity to realize measurable energy savings which will result in reduced energy costs and increased market competitiveness.

The specific goals of the Best-Price Energy Efficiency Program include reducing total energy use, decreasing fossil fuel emissions, creating and retaining jobs, spurring economic growth, and improving Missouri industries energy efficiency. Through these program guidelines, Missouri Department of Natural Resources will provide incentives to energy efficiency service providers to identify and install energy efficiency projects within the industrial and commercial sectors.

This program is designed to reach industrial and commercial entities through a rapid deployment program at a market driven lowest cost for energy efficiency savings.

## **4. Anticipated Funding**

Up to \$3,000,000 of ARRA SEP funds are available under the Best-Price Energy Efficiency Program. This will be a competitive funding opportunity based on reverse auction process for pre-qualified bidders.

## 5. Timeline

Event	Date
Release of Program Guidelines	May 24, 2010
Program Introduction Webinar	June 8, 2010
Deadline for Submittal of Pre-qualification Forms	July 15, 2010
Notification of Pre-Qualification	July 21, 2010
Expected Date of Reverse Auction	July 26 – July 30, 2010
Expected Award Date	Sept. 13, 2010
Project Start Date	Oct. 2010
Project Completion Date	Jan. 31, 2012

## 6. Definitions

“Bid Decrement” means the actual amount or percentage by which the next bid submitted in an auction is to be lower than the previous bid.

“Bid Price Ceiling” means the established opening bid price at which providers will start bidding.

“Demand Side Management” means the planning, implementation, and monitoring of activities designed to encourage consumers to modify patterns of electricity usage, including the timing and level of electricity demand. It refers to only energy and load-shape modifying activities that are undertaken in response to utility-administered programs. Demand side management covers the complete range of load-shape objectives, including strategic conservation and load management, as well as strategic load growth.

“Energy Efficiency” means measures that reduce the amount of electricity required to achieve a given end use.

“Fuel Switching” means changing from one fuel type to another for a particular end-use service. For example, electric water heaters being replaced with gas units.

“Grant Agreement” means a contractual agreement provided by Missouri Department of Natural Resources to the subgrantee, that outlines the terms and conditions that the subgrantee must follow.

“Greenhouse Gases (GHG)” means gases that trap heat in the atmosphere. Some greenhouse gases such as carbon dioxide occur naturally and are emitted to the atmosphere through natural processes and human activities. Other greenhouse gases (e.g., fluorinated gases) are created and emitted solely through human activities. The principal greenhouse gases that enter the atmosphere because of human activities are: Carbon Dioxide (CO<sub>2</sub>), Methane (CH<sub>4</sub>), and Nitrous Oxide (N<sub>2</sub>O) and Fluorinated gases.

“Leveraged Funds” means funds made available to the project from sources other than *Energize Missouri Industries* dollars to further the objectives of the project.

“New Construction” means site preparation for, and construction of, entirely new structures and/or significant additions to existing structures whether or not the site was previously occupied.

“Pre-qualified Provider” means an approved energy service provider or equipment installer who has been pre-qualified by Missouri Department of Natural Resources.

“Private Company” means a business firm in the private (non-public) sector of an economy, controlled and operated by private individuals (and not by civil servants or government-employees).

“Project Completion Date” means the date that all project tasks are complete and equipment is installed and operational.

“Providers” means energy efficiency companies including, but not limited to, Energy Service Companies (ESCOs), equipment installers, and engineering and consulting firms.

“Reverse Auction” means a type of auction in which the role of the buyer and seller are reversed, with the primary objective to drive purchase prices downward. The sellers compete to provide a good or service by offering progressively lower quotes until no provider is willing to make a lower bid.

“Subgrantee” means a provider that has been awarded a grant under the Best-Price Energy Efficiency Program.

## II. Program Information

### 1. Program Introduction

The Best-Price Energy Efficiency Program provides grants to energy efficiency companies (providers) that competitively bid for energy efficiency incentives through a “reverse auction.” Incentive dollars will be allocated based on a lowest-price obtained through a reverse auction open only to pre-qualified providers.

The reverse auction will be executed through an online platform, and will allow pre-qualified providers to bid on incentives on a \$/kWh saved basis for expected energy efficiency projects. The reverse auction will have predetermined starting bid amounts and maximum bid size limitations. This will ensure that grant dollars are distributed to numerous pre-qualified providers across the state.

Grants will be awarded to the lowest bidders, who will then be tasked with identifying industrial and commercial customers to implement eligible energy efficiency projects to expend their allotment of incentive funds. The target industrial and commercial customers will include both large energy consumers as well as smaller commercial sector customers.

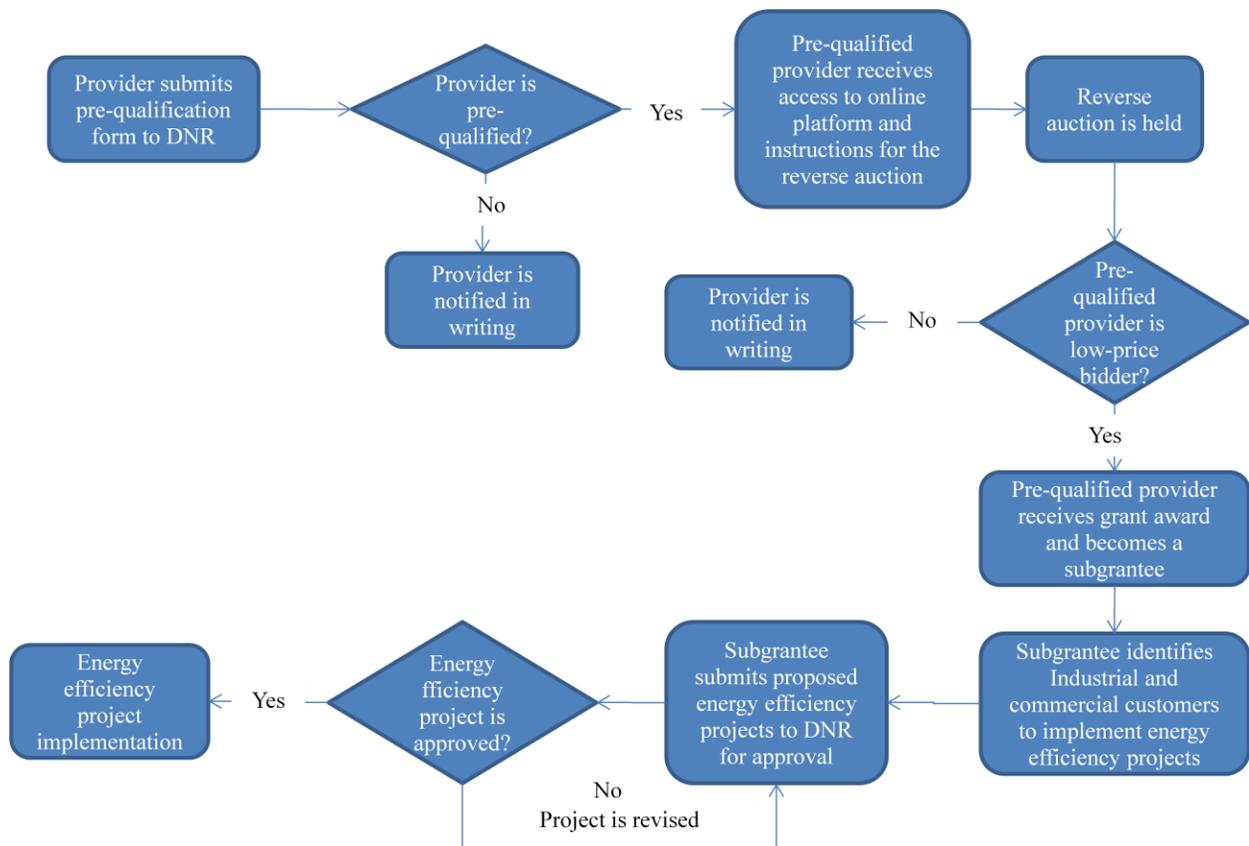


Figure 2. Best-Price Energy Efficiency Program Process

## 2. Pre-Qualification Process

Providers interested in participating in the reverse auction, must submit pre-qualification forms (Forms A - D) to Missouri Department of Natural Resources by July 15, 2010. Only pre-qualified providers will be able to participate in the online reverse auction and will be given a login and password, as well as a set of instructions.

The department will pre-qualify as many providers as possible who meet the pre-qualification criteria established in these program guidelines.

## 3. Reverse Auction

The online reverse auction will be held on a set date over a specified time period. During the reverse auction, pre-qualified providers will be able to bid on the available grant amounts by specifying the minimum amount money that they would be willing to accept in order to provide energy efficiency services on a \$/kWh saved basis.

The following price ceiling and minimum bid decrement will be set prior to the reverse auction:

	<b>Electric Energy Reduction</b>	<b>Units</b>
Bid Price Ceiling	\$0.25	\$/kWh
Minimum Bid Decrement	\$0.0025	\$/kWh

The department reserves the right to modify the price ceiling, bidding decrement, award sizes and number of grants awarded prior to conducting the reverse auction.

## 4. Grant Awards

The department may provide a grant award up to \$500,000 per pre-qualified provider based on the results of the reverse auction. Grants will be awarded to the pre-qualified providers who submit the lowest bids until all funds are allocated. At this point, providers will become subgrantees and will have to comply with all of ARRA, the department and other state and federal requirements as outline in these program guidelines.

## 5. Identification of Energy Efficiency Projects

After executing a grant agreement with the department, subgrantees shall identify industrial and/or commercial customers to implement energy efficiency projects in order to expend on allotment of incentive funds.

Prior to implementing an energy efficiency project, subgrantees must submit a pre-installation form for approval to the department. The pre-installation form will identify the industrial or commercial customer; include a description of the energy efficiency project, plans and specifications for the project, and a detailed calculation of the energy reduction that will result from the project.

## 6. Energy Efficiency Project Implementation

Upon completion of an approved energy efficiency project, subgrantees will submit a post-installation form that includes a description of the completed energy efficiency project, provides a revised estimate of the savings associated with the project, and includes a request for reimbursement based on the bidding price and the target energy reductions achieved.

## 7. Funding Disbursement

Funds will be disbursed to the subgrantee as eligible energy efficiency projects are completed and target energy reductions are achieved.

The department reserves the right to reallocate funds to other subgrantees if it is determined a subgrantee will not meet the project implementation deadlines. Funds not allocated to specific industrial or commercial customer project after a determined date may be reallocated to other subgrantees on a lowest bid basis.

## 8. Leveraged Funding

Subgrantees are encouraged to assist industrial and commercial customers in leveraging other funding sources to the greatest extent possible. Leveraged funds means funds made available to the project from sources other than *Energize Missouri Industries*, including dollars from the Industrial Energy Efficiency Program. Examples of eligible leveraged funds include, but are not limited to, customer contributions, utility rebates or incentives, bonds, state funds, and other federal funds as applicable to the project.

Subgrantees and industrial and commercial customers should note that **tracking and reporting of *Energize Missouri Industries* funding must be kept separate** by appropriate accounting methods to meet federal and state reporting requirements. The terms and conditions of the grant agreement will specify the format, tools and information required for reporting programmatic and energy metrics as identified by the U.S. DOE and the federal and state government.

### **III. Eligibility Criteria**

#### **1. Eligible Providers**

Under the Best-Price Energy Efficiency Program, eligible providers must be located and provide energy related services in the State of Missouri. Providers may include, but are not limited to, Energy Service Companies (ESCOs), equipment installers, and engineering and consulting firms.

Eligible providers must be pre-qualified by the department in order to participate in the reverse auction. The department reserves the right to investigate each provider's current and past compliance with local, state, and federal laws, rules, regulations and policies, and the provider's status may be used to determine eligibility.

#### **2. Eligible Energy Efficiency Projects**

The Best-Price Energy Efficiency Program does not restrict energy efficiency project types, but does require that projects meet the following criteria:

- A. Energy efficiency projects must be physically located within the state of Missouri.
- B. Projects must be implemented in facilities owned and operated by industrial and commercial customers.
- C. Energy efficiency projects must comply with all requirements identified in Section IV. Subgrantee requirements including Davis Bacon, Buy American, NEPA, and NHPA requirements.
- D. Projects must produce verifiable energy reductions through increased energy efficiency.
- E. Projects must be approved by the department prior to implementation.
- F. Projects must meet the project completion deadline date of Jan. 31, 2012.

#### **3. Ineligible Projects and Costs**

The following projects are NOT eligible for funding under these guidelines:

- A. Projects for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool.
- B. Projects that repair or replace existing equipment with equal or less energy efficient equipment.
- C. Projects that increase the energy load of a facility by adding additional new equipment.
- D. Projects that involve fuel switching or demand management.
- E. Projects started or installed prior to signing a grant agreement with the department.
- F. Funds for buying or leasing property.
- G. Projects with simple paybacks greater than the equipment life.

## IV. Subgrantee Requirements

### 1. General Terms and Conditions

The subgrantee will agree to abide by the general terms and conditions (**Exhibit B**), the program specific terms and conditions (**Exhibit C**), and the ARRA special terms and conditions (**Exhibit D**) which highlight the requirements which are especially pertinent to federal subgrants made by the Missouri Department of Natural Resources.

In addition, the subgrantee must comply with all governing requirements of their subgrant, including the Federal Common Rule.

### 2. Project Completion Date

All energy efficiency projects that receive funding under the Best-Price Energy Efficiency Program must be completed on or before Jan. 31, 2012. The department will not, without exception, authorize any extensions to the project completion date and reserves the right to terminate a grant agreement and de-obligate awarded funds. In such case, the subgrantee shall not be reimbursed for costs incurred at their risk.

### 3. Class 3 County Set-Aside

Subgrantees shall ensure that a minimum of 10 percent of Best-Price Energy Efficiency Program funds are spent on energy efficiency projects that occur within Class 3 Counties. Exhibit A of these program Guidelines includes a list of all counties that fall under the Class 3 classification.

### 4. Required Registrations

All subgrantees must be registered and in good standing in accordance with the requirements below:

**Dun and Bradstreet Data Universal Number System (DUNS):** Prior to beginning work, subgrantees must obtain a DUNS number or, if necessary, update their organization's information. DUNS Number assignment is FREE for all businesses required to register with the US Federal Government for contracts or grants. Once you receive this number, please be sure to file it appropriately as you will need it to register with the Central Contractor Registry (below) and to apply for funding through the State Energy Program. To request your DUNS Number via the Web, please visit the following URL: <http://fedgov.dnb.com/webform>. For technical difficulties, contact [govt@dnb.com](mailto:govt@dnb.com) or call the D&B Government Customer Response Center at 1-866-705-5711.

**Central Contractor Registry (CCR):** All subgrantees must maintain current registration in the CCR at all times during which they have an active award funded with ARRA funds. The CCR database is the federal government's primary registrant database. It collects, validates, stores and disseminates data in support of federal grants, cooperative agreements, and other forms of assistance. Registrants must update or renew their registration at least once per year to maintain an active status.

- 1) To register, visit the following link: <http://www.bpn.gov/ccr/>
- 2) Download the User Account Guide from the Central Contractor Registry for instructions on creating or modifying a CCR account <http://www.bpn.gov/ccr/doc/UserAccount.pdf>

- 3) From the CCR home page, select “Start New Registration” or “Update or Renew Registration” from the left hand column. Follow instructions from the User Account Guide to complete the application process.

## 5. Transparency Requirements

All files, progress reports, financial reports, documents and data pertaining to the SEP will be posted on federal and state web sites for public viewing. Federal law mandates substantial reporting and documentation of funded activities as well as more intensive monitoring and auditing. Additional sources of ARRA information are available at: <http://www.recovery.gov/Pages/home.aspx>

## 6. Reporting Requirements

Congress has specifically mandated that all ARRA recipients must report on the use of said funds for purposes of transparency and oversight. All funds issued under ARRA are subject to unparalleled scrutiny, with specific distribution and reporting requirements by the federal government and the state of Missouri.

Subgrantees will be required to submit monthly progress and expenditure reports in accordance with the requirements of the grant agreement. Additional quarterly, annual and completion reports may be requested from the subgrantee. The department reserves the right to structure reporting requirements on a project-specific basis.

## 7. Measurement and Verification

Measurement and verification (M and V) activities may be conducted for all projects in order to verify efficiency savings. The level of M and V rigor will be assessed for each project based on the measure type of expected savings amount. The type of verification will depend on the project characteristics, size, and overall risk.

Mature technologies such as lighting projects tend to rely more heavily on a stipulated savings approach. More comprehensive and larger projects where savings are more uncertain typically involve the collection of performance data or modeling activities. M and V activities will be performed by the department and will not incur costs to the subgrantee or the industrial and/or commercial customer.

## 8. Davis-Bacon Act

ARRA §1606 states that the **Davis-Bacon prevailing wage requirement broadly applies to construction projects funded with ARRA appropriations.** In order to receive any funding under this grant, the subgrantee must comply with the requirements of this Act. The Davis-Bacon Act (40 U.S.C. 3141-3148) requires payment of locally prevailing wages (including fringe benefits) to laborers and mechanics on federal government contracts in excess of \$2,000 for construction, alteration, or repair of public buildings or public works who are employed directly on the site of the work. The provisions of the Davis-Bacon Act apply to both contractors and subcontractors.

## 9. Buy American Provision

In accordance with ARRA, §1605, the subgrantee assures that it and its sub-recipient(s), including industrial and commercial customers, will not use ARRA funds for a project for the construction,

alternation, maintenance, or repair of a public building or public work unless all of the **iron, steel and manufactured goods used in the project are produced in the United States.**

The only exceptions to this rule would be if iron, steel, and relevant manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of satisfactory quality; or inclusion of iron, steel and manufactured goods produced in the United States will increase the cost of the overall project by more than 25 percent.

On Feb. 11, 2010, U.S. DOE granted nationwide categorical waivers under the Buy American Provisions for the following items:

- 1) Fluorescent electronic lighting ballasts.
- 2) LED traffic lights and crosswalk signals.
- 3) Screw-base and pin-base compact fluorescent lamps (with the exception of plug-in CFLs longer than 10 inches).

Further details are available on the Buy American webpage at:

[http://www1.eere.energy.gov/recovery/buy\\_american\\_provision.html](http://www1.eere.energy.gov/recovery/buy_american_provision.html)

## 10. National Environmental Policy Act (NEPA) Requirements

The National Environmental Protection Act of 1970 (NEPA), as amended (42 U.S.C. 4371, *et seq.*) requires federal agencies to consider the potential environmental impacts of their proposed actions. Awards issued under *Energize Missouri Industries* will be funded pursuant to a grant from U.S. DOE to the Missouri Department of Natural Resources. U.S. DOE must comply with NEPA when awarding grants to states. Accordingly, subgrantees may not take action using federal funds for projects that may have an adverse effect on the environment prior to U.S. DOE providing a final NEPA determination regarding the selected projects.

For more information regarding NEPA see U.S. DOE's NEPA Web site: <http://www.gc.energy.gov/NEPA/>

Based on a review of the list of activities that funds can be utilized for under the SEP Program, U.S. DOE has determined that projects that meet certain criteria and conditions will likely be classified as categorical exclusions and will not require a NEPA review.

***The following activities are considered Categorical Exclusions from NEPA:***

1. Funding energy efficiency retrofits, provided that:
  - Projects Are Limited To: installation of insulation; installation of energy efficient lighting; HVAC upgrades; weather sealing; purchase and installation of ENERGY STAR appliances; replacement of windows and doors; high efficiency shower/faucet upgrades; and installation of solar powered appliances with improved efficiency.
2. Development, implementation, and installation of onsite renewable energy technology that generates electricity from renewable resources, provided that:
  - Projects Are Limited To:
    - Combined Heat and Power System - boilers sized appropriately for the buildings in which they are located.

**Subgrantees proposing energy efficiency projects that fall within the categories included above will likely receive timely approval from the department to proceed with the implementation of the project.**

**Categorical Exclusions are not absolute.** A project activity that falls within a categorical exclusion may require additional NEPA review if it involves “extraordinary circumstances” that may affect the significance of its environmental effects. “Extraordinary Circumstances” are defined as “unique situations presented by specific proposals, such as scientific controversy about the environmental effects of the proposal; uncertain effects or effects involving unique or unknown risks; or unresolved conflicts concerning alternate uses of available resources within the meaning of section 102(2)(E) of NEPA [42 U.S.C. §4332(e)].

Subgrantees proposing projects in support of other activities NOT listed above may also qualify for categorical exclusion status. However, this determination cannot be made without a NEPA review.

**Subgrantees must be aware that proposed energy efficiency projects NOT included in the list above may require additional documentation prior to approval from the department, may require an additional NEPA review from U.S. DOE, or may be rejected by the department at the time of submission for approval.**

## 11. National Historic Preservation Act (NHPA) Requirements

Because Recovery Act funds are federal, all funding recipients must meet Federal Cultural Resource Review requirements under Section 106 of the National Historic Preservation Act. For more information regarding Section 106 see the State Historic Preservation Office (SHPO) Web site: <http://www.dnr.mo.gov/shpo/>

Projects involving a building or structure included in the National Register of Historic Places (NRHP) or one eligible for inclusion in the NRHP will require additional documentation.

Subgrantees should note that U.S.DOE will only consider the project in compliance with Section 106 of the NHPA when adequate background documentation has been submitted and written concurrence that SHPO does not object to its Section 106 determination has been provided. In addition, subgrantees should note that funding disbursements will be dependent on energy efficiency projects meeting Section 106 requirements.

## 12. Waste Management Plan

Prior to the expenditure of federal funds to dispose of sanitary or hazardous waste, the department is required to verify that an adequate disposal plan has been prepared for sanitary or hazardous waste generated by the proposed activities.

Upon award, subgrantees shall submit to the department information on the expected waste stream of the proposed projects. Sanitary or hazardous waste includes, but is not limited to, old light bulbs, lead ballasts, piping, roofing material, discarded equipment, debris, asbestos, etc.

Subgrantees must work with industrial and commercial customers to create waste management plans for every project site. These waste management plans shall be made available to the department upon the department’s request. In addition, subgrantees shall ensure that energy efficiency projects are in compliance with all federal, state and local regulations for waste disposal.

## V. Pre-Qualification Process

Providers interested in participating in the reverse auction must be pre-qualified by the Missouri Department of Natural Resources. Providers must follow the specified deadlines, format and requirements provided in these program guidelines.

Be sure to submit all pre-qualification forms, relevant information, attach appropriate supporting documents and have the pre-qualification forms signed and dated. There are no additional format requirements; however, to conserve resources, it is encouraged that pre-qualification forms are printed duplex (two-sided) on post consumer recycled content paper. The use of binders or any other elaborate covers is strongly discouraged.

Providers must submit two copies of the completed pre-qualification forms (including supporting documents) and a compact disc (CD) containing the corresponding documents to the department. Note that the documents included on the compact disc should be in Microsoft Word, Excel or Adobe PDF format.

Two hard copies of the complete pre-qualification forms along with the compact disc should be mailed to:

Missouri Department of Natural Resources  
Division of Energy  
Attention: Best Price Energy Efficiency Program  
1101 Riverside Drive, P.O. Box 176  
Jefferson City, MO 65102-0176

All pre-qualification forms must be received by  
4 p.m. CDT on July 15, 2010

Missouri Department of Natural Resources will evaluate timely submitted pre-qualification forms via a multi-party review, and will determine whether, based on the information supplied, the provider has financial viability, sufficient energy efficiency expertise, qualified staff and customer reach.

### 1. Pre-Qualification Criteria

The following, pre-qualification criteria have been developed to assist the department in identifying the providers that display the most potential for achieving the goals of the program:

- **Financial Viability:** the general financial, staff and company viability to meet the program requirements.
- **Project Experience:** past project experience with relevance to developing, designing and implementing industrial or commercial energy efficiency projects.
- **Personnel Experience:** staff experience in developing, designing and implementing industrial or commercial energy efficiency projects.

- **Proposed Implementation Strategy:** proposed strategy that the providers will follow for delivering the target energy savings, if awarded a grant under the Best-Price Energy Efficiency Program.

## **2. Notification of Pre-Qualification**

Providers meeting the pre-qualification criteria will be added to a list of pre-qualified providers, will be notified of their pre-qualification status, and will receive log in information for the online platform, and instructions to participate in the reverse auction.

Unsuccessful providers will be informed in writing. Pre-qualification forms will not be returned.

## **3. Pre-Qualification Rejection**

Missouri Department of Natural Resources reserves the right to reject any provider. The submission of the pre-qualification Forms under these program guidelines confers no right upon any provider.

### **Pre-qualification forms will be rejected if:**

- A. Pre-qualification forms are not received by the due date and time as specified in these program guidelines.
- B. The provider does not meet the pre-qualification criteria.
- C. The provider is not an eligible provider in accordance with Section III. Eligibility criteria of these program guidelines.
- D. The pre-qualification forms do not include the signature of an authorized individual.

## **VII. Available Assistance**

### **1. Program Introduction Webinar**

A program introduction webinar was held on Tuesday, June 8, 2010, at 10 a.m. to noon CDT to describe the Best-Price Energy Efficiency Program, discuss the program guidelines, the pre-qualification process, the reverse auction and answer general inquiries about the program.

The webinar presentation is available at: <http://www.dnr.mo.gov/transform/em-bpee-webinar.pdf>

### **2. Questions**

Interested providers may submit questions at any time during the pre-qualification process. For questions, please e-mail the Best-Price Energy Efficiency Program at: [EML.bestprice@shawgrp.com](mailto:EML.bestprice@shawgrp.com) or call: 1-877-610-0834.

A frequently asked questions (FAQ) document will be posted, and updated frequently, on the *Energize Missouri Industries* Web site at <http://www.dnr.mo.gov/transform/energizemissouriindustry.htm>. The person and organization submitting a question will not be identified.

**VIII. Supporting Documents**

<b>Document Code</b>	<b>Description</b>
Exhibit A	Class 3 Counties
Exhibit B	General Terms and Conditions
Exhibit C	Program Specific Terms and Conditions
Exhibit D	ARRA Special Terms and Conditions
Forms A - D	Pre-qualification Forms

**EXHIBIT A**  
**MISSOURI CLASS 3 COUNTIES**

<b>Class 3 (Total: 89)</b>		
Adair	Henry (T-19)	Perry
Andrew	Hickory	Phelps
Atchinson	Holt	Pike
Audrain	Howard	Polk
Barry	Howell	Pulaski
Barton (T-15)	Iron	Putnam (T-11)
Bates (T-24)	Knox	Ralls
Benton	Laclede	Randolph
Bollinger	Lawrence	Ray
Butler	Lewis	Reynolds
Caldwell (T-12)	Lincoln	Ripley
Carroll (T-21)	Linn (T-14)	Schuyler
Carter	Livingston (T-13)	Scotland
Cedar	Macon	Scott
Chariton (T-16)	Madison	Shannon
Clark	Maries	Shelby
Clinton	Marion	St. Clair
Cooper	McDonald	Ste. Genevieve
Crawford	Mercer (T-9)	Stoddard (T-7)
Dade (T-16)	Miller	Stone
Dallas	Mississippi	Sullivan (T-12)
Daviess (T-15)	Moniteau	Texas (T-17)
Dekalb (T-9)	Monroe	Vernon (T-20)
Dent	Montgomery	Warren
Douglas	Morgan	Washington
Dunklin (T-8)	Nodaway (T-15)	Wayne
Gasconade	Oregon	Webster
Gentry (T-8)	Osage	Worth
Grundy (T-13)	Ozark	Wright
Harrison (T-20)	Pemiscot	

**EXHIBIT B**  
**MISSOURI DEPARTMENT OF NATURAL RESOURCES**  
**Federal Subgrants**  
**GENERAL TERMS AND CONDITIONS**

**I. Administrative Requirements**

These general terms and conditions highlight requirements which are especially pertinent to federal subgrants made by the Missouri Department of Natural Resources (the department). These general terms and conditions do not set out all of the provisions of the applicable laws and regulations, nor do they represent an exhaustive list of all requirements applicable to this award. These terms and conditions are emphasized here because they are frequently invoked and their violation is of serious concern.

In addition to these terms and conditions, the Subgrantee must comply with all governing requirements of their subgrant, including the Federal Common Rule (adopted by federal agencies and contained in specific Codes of Federal Regulation, for each federal agency, under the title "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments"). The Common Rule is fully incorporated by reference into these terms and conditions. The common rule as codified by the federal granting agency can be found at <http://www.whitehouse.gov/omb/grants/chart.html>

- A. **Method of Payment.** The Subgrantee will be reimbursed by the department for all allowable expenses incurred in performing the scope of services. The Subgrantee shall report project expenses and submit to the department original invoices for payment as required by division/program per the subgrant agreement. The form must be completed with the department invoiced amount and local share detailed. Invoices must provide a breakdown of project expenses by the budget categories contained in the subgrant budget. Invoices must be received by the department per the subgrant agreement. No reimbursements will be made for expenditures incurred after the closing budget date unless a budget time period extension has been granted by the department prior to the closing date.
1. Payments under non-construction grants will be based on the grant sharing ratio as applied to the total project cost for each invoice submitted unless the subgrant specifically provides for advance payments. Advance payments may only be made upon a showing of good cause or special circumstances, as determined by the department. Advance payments will only be made on a monthly basis to cover estimated expenditures for a 30-day period or as otherwise agreed. The department will not advance more than 25 percent of the total amount of the grant unless the recipient demonstrates good cause.
  2. All reimbursement requests must have the following certification by the authorized Subgrantee official: I certify that to the best of my knowledge and belief the data above are correct and that all outlays were made or will be made in accordance with the subgrant and that payment is due and has not been previously requested.
- B. **Retention and Custodial Requirements for Records.** The Subgrantee shall retain financial records, supporting documents, and other records pertinent to the subgrant for a period of three years starting from the date of submission of the final financial status report. Authorized representatives of federal awarding agencies, the Comptroller General of the United States, and the department shall have access to any pertinent books, documents, and records of Subgrantees in order to conduct audits or

examinations. The Subgrantee agrees to allow monitoring and auditing by the department and/or authorized representative. If any litigation, claim, negotiation, audit, or other action involving the records has been started before the expiration of the 3-year period, the Subgrantee shall retain records until completion of the action and resolution of all issues which arise from it, or until the end of the regular 3-year period, whichever is later.

C. **Program Income.**

1. **Program Income.** Subgrantees are encouraged to earn income to defray program costs. Program income means income from fees for services performed, from the use or rental of real or personal property acquired with grant funds, from the sale of commodities or items fabricated under the subgrant, and from payments of principal and interest on loans made with subgrant funds. Program income does not include items such as interest on grant funds, rebates, credits, discounts, or refunds.

- D. **Match or Cost Share Funding.** In general, match or cost sharing represents that portion of project costs not borne by state appropriations. The matching share will usually be prescribed as a minimum percentage. In-kind (noncash) contributions are allowable project costs when they directly benefit and are specifically identifiable to the project or program. Any in-kind match must be assigned a fair market value stated in dollars and the rationale used to calculate the value must be provided. Neither costs nor the values of third party in-kind contributions count towards satisfying a cost sharing or matching requirement of a grant agreement if they have been or will be counted towards satisfying a cost sharing or matching requirement of another federal subgrant agreement, a federal procurement contract, or any other award of federal funds. Federal funds from another federal grant or subgrant shall not count towards satisfying a cost sharing or matching requirement of a grant agreement.

1. Match or cost share funding will be established by the department through negotiation with the Subgrantee. Signature by both the department and Subgrantee on the subgrant signature form firmly affixes the match or cost sharing ratios. Full expenditure of Subgrantee match or cost share funding is required over the life of the subgrant. Subgrantee must invoice the department, as required by the particular subgrant, and provide financial records for total expenditure of state and match or cost share funding. The department will reimburse the Subgrantee for its percentage portion agreed to less any negotiated withholding.
2. Failure to provide 100 percent of the match or cost share ratio of total expenditures as identified in the subgrant may cause the Subgrantee to become ineligible to receive additional financial assistance from the department. Failure to provide the required match may result in other enforcement remedies as stated in Y. for non-compliance.

- E. **Financial Management Systems.** The financial management systems of Subgrantees must meet the following standards:

1. **Financial Reporting.** Accurate, current, and complete disclosure of financial results of financially assisted activities must be made in accordance with the financial reporting requirements of the subgrant;
2. **Accounting Records.** Maintain records which adequately identify the source and application of funds provided for financially assisted activities. These records must contain information pertaining to subgrant awards and

authorizations, obligations, unobligated balances, assets, liabilities, outlays or expenditures, and income;

3. Internal Control. Effective control and accountability must be maintained for all Subgrantee cash, real and personal property, and other assets. Subgrantees must adequately safeguard all such property and must assure that it is used solely for authorized purposes;
  4. Budget Control. Actual expenditures or outlays must be compared with budgeted amounts for each subgrant;
  5. Allowable Costs. Applicable OMB cost principles, federal agency program regulations, and the subgrant scope of work will be followed in determining the reasonableness, allowability, and allocability of costs;
  6. Source Documentation. Accounting records must be supported by such source documentation as canceled checks, paid bills, payrolls, time and attendance records, contract, and subgrant award document. The documentation must be made available by the Subgrantee at the department's request;
  7. The Subgrantee shall have procedures in place to minimize the time lapsed between money disbursed by the department and money spent by the Subgrantee.
- F. **Reporting of Program Performance.** Subgrantee shall submit to the department a performance report for each program, function, or activity as specified by the subgrant or at least annually and/or after completion of the project. Performance report requirements, if not expressly stated in the scope of work, should include, at a minimum, a comparison of actual accomplishments to the goals established, reasons why goals were not met, including analysis and explanation of cost overruns or higher unit cost when appropriate, and other pertinent information. Representatives of the department shall have the right to visit the project site(s) during reasonable hours for the duration of the contract period and for three years thereafter.
- G. **Budget and Scope of Work Revisions.** Subgrantees are permitted to rebudget within the approved direct cost budget to meet unanticipated requirements. However, Subgrantee must request approval in writing to revise budgets and scopes of work under the following conditions:
1. For non-construction grants, Subgrantees shall obtain the prior approval of the department, unless waived by the department, for cumulative transfers among direct cost categories, or, if applicable, among separately budgeted programs, projects, functions or activities when the accumulative amounts of such transfers exceed or are expected to exceed 10 percent of the current total approved budget whenever the department's share exceeds \$100,000.
  2. For construction and non-construction projects, Subgrantees shall obtain prior written approval from the department for any budget revision which would result in the need for additional funds.
  3. For combined non-construction and construction projects, the Subgrantee must obtain prior written approval from the department before making any fund or budget transfer from the non-construction to construction or vice versa.

4. Subgrantees under non-construction projects must obtain prior written approval from the department whenever contracting out, subgranting, or otherwise obtaining a third party to perform activities which are central to the purpose of the award.
  5. Changes to the scope of services described in the subgrant must receive prior approval from the department. Approved changes in the scope of work or budget shall be incorporated by written amendment to the subgrant.
  6. Extending the grant past the original completion date requires approval of the department.
- H. **Equipment Use.** Subgrantee agrees that any equipment purchased pursuant to this agreement shall be used for the performance of services under this agreement during the term of this agreement. The equipment shall not be moved from the State of Missouri without approval from the department. The following standards shall govern the utilization and disposition of equipment acquired with subgrant funds:
1. Title to equipment acquired under this subgrant will vest with the Subgrantee on acquisition. Equipment means an article of nonexpendable, tangible personal property having a useful life of more than one year and an acquisition cost \$5,000 and greater.
    - a. Equipment shall be used by the Subgrantee in the program or project for which it was acquired as long as needed, whether or not the project or program continues to be supported by department funds. When no longer needed for the original program or project, the equipment may be used in other activities currently or previously supported by the department or the federal agency. If the department puts Subgrantee on notice that it believes grant assets are not being used for the intended purpose, Subgrantee shall not sell, give away, move or abandon the assets without the department's prior written approval.
    - b. The Subgrantee shall also make equipment available for use on other projects or programs currently or previously supported by the department, providing such use will not interfere with the work on the projects or program for which it was originally acquired. First preference for other use shall be given to other programs or projects supported by the department. User fees should be considered if appropriate.
    - c. The Subgrantee must not use equipment acquired with department funds to provide services for a fee to compete unfairly with private companies that provide equivalent services, unless specifically permitted or contemplated by state or federal law. This fee may be considered program income under Section C above.
    - d. When acquiring replacement equipment, the Subgrantee may use the equipment to be replaced as a trade-in or sell the property and use the proceeds to offset the cost of the replacement property, subject to the approval of the department.

2. **Equipment Management.** Subgrantee's procedures for managing equipment, whether acquired in whole or in part with subgrant funds, will, at a minimum, meet the following requirements until disposition takes place:
    - a. Subgrantee must maintain property records that include a description of the equipment, a serial number or other identification number, the source of property, the acquisition date, cost of the property, percentage of federal or state participation in the cost of the property, and the location, use and condition of the property.
    - b. A physical inventory of the property must be taken and the results reconciled with the property records at least once every two years.
    - c. A control system must be developed to ensure adequate safeguards to prevent against loss, damage, or theft of the property. Any loss, damage, or theft shall be reported to and investigated by local authorities. The Subgrantee shall procure and maintain insurance covering loss or damage to equipment purchased with a sub-grant award, with financially sound and reputable insurance companies or through self-insurance, in such amounts and covering such risks as are usually carried by companies engaged in the same or similar business and similarly situated.
    - d. Subgrantee must develop adequate maintenance procedures to keep the property in good condition.
    - e. If the Subgrantee is authorized or required to sell the property, proper sales procedures must be established to ensure the highest possible return.
  3. **Disposition.** When original or replacement equipment acquired under a subgrant is no longer needed for the original project or program or for other activities currently or previously supported by the department, Subgrantee shall dispose of the equipment as follows:
    - a. Items of equipment with a current per-unit fair market value of less than \$5,000 may be retained, sold or otherwise disposed of with no further obligation to the department.
    - b. For items of equipment with a current per unit fair market value of \$5,000 or more, the department shall have a right to an amount calculated by multiplying the current market value or proceeds from sale by the department's share of the equipment.
    - c. In cases where a Subgrantee fails to take appropriate disposition actions, the department may direct the Subgrantee how to dispose of the equipment.
    - d. If the department puts Subgrantee on notice that it believes grant assets are not being used for the intended purpose, Subgrantee shall not sell, give away, move or abandon the asset without department's written approval.
- I. **Supplies.** Title to supplies acquired under a subgrant will vest, upon acquisitions, in the Subgrantee.

If there is a residual inventory of unused supplies exceeding \$5,000 in total aggregate fair market value upon termination or completion of the award, and if the supplies are not needed for any other federally sponsored programs or projects, the Subgrantee shall compensate department for its share.

- J. **Inventions and Patents.** If any Subgrantee produces subject matter, which is or may be patentable in the course of work sponsored by this subgrant, Subgrantee shall promptly and fully disclose such subject matter in writing to the department. In the event that the Subgrantee fails or declines to file Letters of Patent or to recognize patentable subject matter, the department reserves the right to file the same. The department grants to the Subgrantee the opportunity to acquire an exclusive license, including the right to sublicense, with a royalty consideration paid to the department. Payment of royalties by Subgrantee to the department will be addressed in a separate royalty agreement.
- K. **Copyrights.** Except as otherwise provided in the terms and conditions of this subgrant, the author or the Subgrantee is free to copyright any books, publications, or other copyrightable material developed in the course of this subgrant; however, the department and federal awarding agency reserve a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use, with the approval of department, the work for government purposes.
- L. **Prior Approval for Publications.** The Subgrantee shall submit to the department two draft copies of each publication and other printed materials which are intended for distribution and are financed, wholly or in part, by subgrant funds. The Subgrantee shall not print or distribute any publication until receiving written approval by the grant manager.
- M. **Mandatory Disclosures.** Subgrantee agrees that all statements, press releases, requests for proposals, bid solicitations, and other documents describing the program/project for which funds are now being awarded will include a statement of the percentage of the total cost of the program/project which is financed with federal and state money, and the dollar amount of federal and state funds for the program/project.
- N. **Procurement Standards.** Subgrantees shall use their own procurement procedures provided that procurement conforms to standards set forth in the "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments."
  - 1. No work or services, paid for wholly or in part with state or federal funds, will be contracted without the written consent of the department. See G.4.
  - 2. Subgrantee agrees that any contract, interagency agreement, or equipment to be procured under this award which was not included in the approved work plan must receive formal department approval prior to expenditure of funds associated with that contract, interagency agreement, or equipment purchase.
- O. **Audit Requirements.** The department has the right to conduct audits of recipients at any time. The Subgrantee shall arrange for independent audits as prescribed in OMB Circular A-133, Single Audit Act Amendments of 1996, as applicable. Audits must confirm that records accurately reflect the operations of the Subgrantee; the internal control structure provides reasonable assurance that assets are safeguarded, and Subgrantee is in compliance with applicable laws and regulations. When the

Subgrantee has its yearly audit conducted by a governmental agency or private auditing firm, the relevant portion(s) of the audit report will be submitted to the department. Other portions of the audit shall be made available at the department's request.

- P. **Allowability of Costs.** Allowability of costs shall be determined in accordance with cost principles contained in OMB Circular No. A-87 for state and local governments, and Circular No. A-122 for nonprofit organizations.
- Q. **Conflicts of Interest.** No party to this subgrant, nor any officer, agent, or employee of either party to this subgrant, shall participate in any decision related to such subgrant which could result in a real or apparent conflict of interest, including any decision which would affect their personal or pecuniary interest, directly or indirectly.

The Subgrantee is advised that, consistent with Chapter 105, RSMo, no state employee shall perform any service for consideration paid by the Subgrantee for one year after termination of the employee's state employment by which the former state employee attempts to influence a decision of a state agency. A state employee who leaves state employment is permanently banned from performing any service for any consideration in relation to any case, decision, proceeding, or application in which the employee personally participated during state employment.

- R. **State Appropriated Funding.** The Subgrantee agrees that funds expended for the purposes of this subgrant must be appropriated and made available by the Missouri General Assembly for each fiscal year included within the subgrant period, as well as being awarded by the federal or state agency supporting the project. Therefore, the subgrant shall automatically terminate without penalty or termination costs if such funds are not appropriated and/or granted. In the event that funds are not appropriated and/or granted for the subgrant, the Subgrantee shall not prohibit or otherwise limit the department's right to pursue alternate solutions and remedies as deemed necessary for the conduct of state government affairs. The requirements stated in this paragraph shall apply to any amendment or the execution of any option to extend the subgrant.
- S. **Eligibility, Debarment and Suspension.** By applying for this award, the Subgrantee verifies that it, its board of directors, and all of its principals are currently in compliance with all state and federal environmental laws and court orders issued pursuant to those laws, and that all environmental violations have been resolved (for example, no pending or unresolved Notices of Violation (NOV)) at the time of application. If compliance issues exist, Subgrantee shall disclose to the department all pending or unresolved violations noted in an NOV, administrative order, or civil and criminal lawsuit, but only where those alleged violations occurred in the past two years in the State of Missouri. The department will not make any award at any time to any party which is debarred or suspended, under federal or state authority, or is otherwise excluded from or ineligible for participation in federal assistance under Executive Order 12549, "Debarment and Suspension." Subgrantee shall complete a Debarment/Suspension form when required by the department. Furthermore, Subgrantee is also responsible for written debarment/suspension certification of all subcontractors receiving funding through a federally funded grant.
- T. **Restrictions on Lobbying.** No portion of this award may be expended by the recipient to pay any person for influencing or attempting to influence the executive or legislative branch with respect to the following actions: awarding of a contract; making of a grant; making of a loan; entering into a cooperative agreement; or the extension, continuation, renewal, amendment or modification of any of these as prohibited by Section 319, Public Law 101-121 (31 U.S.C. 1352).

In accordance with the Byrd Anti-Lobbying Amendment, any recipient who makes a prohibited expenditure under Title 40 CFR Part 34 or fails to file the required certification or lobbying forms shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure.

- U. **Recycled Paper.** Consistent with Federal Executive Order 13101 and 13423 and EPA Executive Order 1000.25, the Subgrantee shall use recycled paper consisting of at least 30 percent post consumer fiber and double sided printing for all reports which are prepared as a part of this grant award and delivered to the department. The Subgrantee must use recycled paper for any materials that it produces and makes available to any parties. The chasing arrows symbol representing the recycled content of the paper will be clearly displayed on at least one page of any materials provided to any parties.
- V. **Contracting with Small and Minority Firms, Women’s Business Enterprise, and Labor Surplus Area Firms.** In accordance with Missouri Executive Order No. 05-30 and federal administrative provisions, all Subgrantees shall make every feasible effort to target the percentage of goods and services procured from certified minority business enterprises (MBE) and women business enterprises (WBE) to 10 percent and 5 percent, respectively, when utilizing subgrant funds to purchase supplies, equipment, construction and services related to this subgrant.
1. The Subgrantee agrees to take all necessary affirmative steps required to assure that small and minority firms and women's business enterprises are used when possible as sources when procuring supplies, equipment, construction and services related to the subgrant. The Subgrantee agrees to include information about these requirements in solicitation documents. Affirmative steps shall include:
    - a. Placing qualified minority business and women's business enterprises on solicitation lists;
    - b. Ensuring that minority business and women's business enterprises are solicited whenever they are potential sources;
    - c. Dividing total requirements, when economically feasible, into small tasks or quantities to permit maximum participation by minority business and women's business enterprises;
    - d. Establishing delivery schedules, where the requirements of work will permit participation by minority business and women's business enterprises;
    - e. Using the services of the Small Business Administration and the Minority Business Development Agency of the U.S. Department of Commerce, and;
    - f. Requiring any prime contractor or other Subgrantee, if subgrants are to be allowed, to take the affirmative steps in subparagraphs a. through e. of this section.
  2. For EPA subgrants, the Subgrantee agrees to submit to the department grants manager a completed Form 5700-52A, U. S. Environmental Protection Agency MBE/WBE Utilization Under Federal Grants, Cooperative

Agreement, and Interagency Agreements within 30 days after the end of each federal/state fiscal year or as determined by the department.

3. For EPA subgrants, the Subgrantee agrees to include disadvantaged business enterprises in the affirmative steps indicated above.

W. **Disputes.** Subgrantee and the department should attempt to resolve disagreements concerning the administration or performance of the subgrant. If an agreement cannot be reached, the department program director will provide a written decision. Such decision of the program director shall be final unless a request for review is submitted to the division director within ten (10) business days after the program director's decision. Such request shall include: (1) a copy of the program director's final decision; (2) a statement of the amount in dispute; (3) a brief description of the issue(s) involved; and (4) a concise statement of the objections to the final decision. A decision by the division director shall constitute final department action.

X. **Termination**

1. **Termination for Cause.** The department may terminate any subgrant, in whole or in part, at any time before the date of completion whenever it is determined that the Subgrantee has failed to comply with the terms and conditions of the subgrant. The department shall promptly notify the Subgrantee in writing of such a determination and the reasons for the termination, together with the effective date. The department reserves the right to withhold all or a portion of grant funds if the Subgrantee violates any term or condition of this subgrant.
2. **Termination for Convenience.** Both the department and Subgrantee may terminate the subgrant, in whole or in part, when both parties agree that the continuation of the project would not produce beneficial results commensurate with the further expenditure of funds.
3. This agreement is not transferable to any person or entity.

Y. **Enforcement; Remedies for Noncompliance.** If a Subgrantee falsifies any award document or materially fails to comply with any term of a grant, award, or subgrant, the department may take one or more of the following actions, as appropriate:

1. Suspend or terminate, in whole or part, the current award or grant.;
2. Disallow all or part of the cost of the activity or action not in compliance;
3. Temporarily withhold cash payments pending Subgrantee's correction of the deficiency;
4. Withhold further awards from the Subgrantee;
5. Order Subgrantee not to transfer ownership of assets purchased with grant money without prior department approval; or
6. Take other remedies that may be legally available, including cost recovery, breach of contract, and suspension or debarment.

Z. **Subgrantee's Signature.** The Subgrantee's signature on the application and the award documents signifies the Subgrantee's agreement to all of the terms and conditions of the award.

- AA. **Human Trafficking. This requirement applies to non-profit recipients or subrecipients.** The Subgrantee, their employees, subrecipients under this award, and subrecipients' employees may not engage in severe forms of trafficking in persons during the period of time that the award is in effect; procure a commercial sex act during the period of time that the award is in effect; or use forced labor in the performance of the award or subawards under the award. department has the right to terminate unilaterally: (1) implement section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), noncompliance that are available to the Subgrantee under this award.
- BB. **Illegal Immigration.** As per HB 1549, 1771, 19395 & 2366 - Section 67.307 2. Any municipality that enacts or adopts a sanctuary policy will be ineligible for moneys provided through grants administered by any state agency or department until the policy is repealed or is no longer in effect.
- CC. **Illegal Immigration – Missouri Statutes – RSMo 285.525 – 285.550 Effective Jan. 1, 2009.** Effective Jan. 1, 2009 and pursuant to RSMo 285.530 (1), no business entity or employer shall knowingly employ, hire for employment, or continue to employ an unauthorized alien to perform work within the state of Missouri.
- DD. **Management Fees.** Management fees or similar charges in excess of the direct costs and approved indirect rates are not allowable. The term “management fees or similar charges” refers to expenses added to the direct costs in order to accumulate and reserve funds for ongoing business expenses, unforeseen liabilities, or for other similar costs which are not allowable under this agreement. Management fees or similar charges may not be used to improve or expand the project funded under this agreement, except to the extent the authorized as a direct cost of carrying out the scope of work.

## II. Statutory Requirements

Subgrantees must comply with all federal state and local laws relating to employment, construction, research, environmental compliance, and other activities associated with grants from the department. Failure to abide by these laws is sufficient grounds to cancel the award. For a copy of state and federal laws that typically apply to grants from the department, contact the department grants manager.

Any Subgrantee, in connection with its application for financial assistance, shall include a certification that the Subgrantee, its board of directors and principals are in compliance with the specific federal and state laws set out below. Further, the Subgrantee shall report to the department any instance in which the Subgrantee or any member of its board of directors or principals is determined by any administrative agency or by any court in connection with any judicial proceeding to be in noncompliance with any of the specific federal or state laws set forth below. Such report shall be submitted within ten (10) working days following such determination. Failure to comply with the reporting requirement may be grounds for termination of this subgrant or suspension or debarment of the Subgrantee

- A. Laws and regulations related to nondiscrimination:
  - 1. Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin;

2. Title VII of the Civil Rights Act of 1964 found at 42 U.S.C. §2000(e) et.seq. which prohibits discrimination on the basis of race, color, religion, national origin, or sex;
  3. Title IX of the Education Amendments of 1972, as amended (U.S.C. §§ 1681-1683 and 1685-1686) which prohibits discrimination on the basis of sex;
  4. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability;
  5. Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 621-634), which prohibits discrimination on the basis of age;
  6. Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse;
  7. Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism;
  8. Sections 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§ 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records;
  9. Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing;
  10. Chapter 213 of the Missouri Revised Statutes which prohibits discrimination on the basis of race, color, religion, national origin, sex, age, and disability.
  11. The Americans with Disabilities Act (P. L. 101-336), 42 U. S. C. §12101 et seq., relating to nondiscrimination with respect to employment, public services, public accommodations and telecommunications.
  12. Any other nondiscrimination provisions in the specific statute(s) and regulations under which application for federal assistance is being made.
  13. The requirements of any other nondiscrimination statute(s) and regulations which may apply to the application.
- B. State and Federal Environmental Laws:
1. The Federal Clean Air Act, 42 U.S.C. § 7606, as amended, prohibiting award of assistance by way of grant, loan, or contract to noncomplying facilities.
  2. The Federal Water Pollution Control Act, 33 U.S.C. § 1368, as amended, prohibiting award of assistance by way of grant, loan, or contract to noncomplying facilities.
  3. The National Environmental Policy Act of 1969, 42 U.S.C. § 4321 et seq., as amended, particularly as it relates to the assessment of the environmental impact of federally assisted projects.

4. The National Historic Preservation Act of 1966, 16 U.S.C. § 470 et seq., as amended, relating to the preservation of historic landmarks.
  5. Earthquakes - Seismic Building and Construction Ordinances, §§ 319.200 - 319.207, RSMo (Cum. Supp. 1990), relating to the adoption of seismic design and construction ordinances by certain cities, towns, villages and counties.
  6. The Missouri Clean Water Law, Sections 644.006 to 644.141, RSMo.
  7. The Missouri Hazardous Waste Management Law, Section, 260.350 to 260.430, RSMo.
  8. The Missouri Solid Waste Management Law, Sections 260.200 to 260.245, RSMo.
  9. The Missouri Air Conservation Law, Sections 643.101 to 643.190, RSMo.
- C. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. §§ 4601 and 4651 et seq., relating to acquisition of interest in real property or any displacement of persons, businesses, or farm operations.
- D. The Hatch Act, 5 U.S.C. § 1501 et seq., as amended, relating to certain political activities of certain State and local employees.
- E. The Archaeological and Historic Preservation Act of 1974 (Public Law 93-291) relating to potential loss or destruction of significant scientific, historical, or archaeological data in connection with federally assisted activities.
- F. The Wild and Scenic Rivers Act of 1968 (16 U.S.C. § 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
- G. The flood insurance purchase requirements of § 102(a) of the Flood Disaster Protection Act of 1973 (Public Law 93-234) which requires Subgrantees in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
- H. The Privacy Act of 1974, P.L. 93-579, as amended prohibiting the maintenance of information about any individual in a manner which would violate the provision of the Act.
- I. Public Law 93-348 regarding the protection of human subjects involved in research, development and related activities supported by this award of assistance.
- J. The Laboratory Animal Welfare Act of 1966 (P. L. 89-544), 7 U.S.C. § 2131 et seq., pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.
- K. The following additional requirements apply to projects that involve construction:
1. The Davis-Bacon Act, as amended, 40 U.S.C. § 276a et seq., respecting wage rates for federally assisted construction contracts in excess of \$2000.
  2. The Copeland (Anti-Kickback) Act, 18 U.S.C. § 874, 40 U.S.C. § 276c.

3. The Contract Work Hours and Safety Standards Act, 40 U.S.C. § 327 et seq.
  4. Convict labor shall not be used on construction projects unless by convicts who are on work release, parole, or probation.
  5. The Lead-Based Paint Poisoning Prevention Act (42 U. S. C. § 4801 et seq.) which prohibits the use of lead paint in construction or rehabilitation of residence structures.
- L. Trafficking Victims Protection Act of 2000, Section 106, as amended (22 U.S.C. 7104(g) relating to termination of contract award based should any employee of the department, recipient or subrecipient violate this act.
- M. Missouri House Bill 1549, 1771, 1395 & 2366 – Illegal Aliens and Immigration Status Verification – This bill change the laws regarding illegal aliens and immigration status verification. Effective Jan. 1, 2009, no business entity or employer shall knowingly employ, hire for employment, or continue to employ an unauthorized alien to perform working within the state of Missouri.
- N. Federal Funding Accountability and Transparency Act of 2006 (S. 2590) – Required information on federal awards be made available to the public via a single searchable Web site. Federal awards include grants, subgrants, loans, awards, cooperative agreements and other forms of financial assistance.

**EXHIBIT C****PROGRAM SPECIFIC TERMS AND CONDITIONS****1. WASTE STREAM**

Prior to the expenditure of Federal funds to dispose of sanitary or hazardous waste, the subrecipient is required to provide documentation to the Project Officer demonstrating that it has prepared a disposal plan for sanitary or hazardous waste generated by the proposed activities. Sanitary or hazardous waste includes, but is not limited to, old light bulbs, lead ballasts, piping, roofing material, discarded equipment, debris, asbestos, etc.

The department Contracting Officer shall consider compliance with this clause complete only after the subrecipient has submitted adequate documentation to department for its review, and department has provided written approval to the subrecipient of its proposed plan to dispose of its sanitary or hazardous waste.

**2. DECONTAMINATION AND/OR DECOMMISSIONING (D&D) COSTS**

Notwithstanding any other provisions of this Agreement, the State shall not be responsible for or have any obligation to the subrecipient for (i) Decontamination and/or Decommissioning (D&D) of any of the subrecipient's facilities, or (ii) any costs which may be incurred by the subrecipient in connection with the D&D of any of its facilities due to the performance of the work under this Agreement, whether said work was performed prior to or subsequent to the effective date of the Agreement.

**3. PROGRAM INCOME**

If a subrecipient earns program income during the project period as a result of this award, the subrecipient must add the program income to the funds committed to the award and utilize the funding to further eligible project objectives.

**4. PUBLICATIONS**

- a. Subrecipients are encouraged to publish or otherwise make publicly available the results of the work conducted under the award.
- b. An acknowledgment of U.S. DOE 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:

**Acknowledgment:** “This material is based upon work supported by the Department of Energy [National Nuclear Security Administration] [add name(s) of other agencies, if applicable] under Award Number DE-EE0000761.”

**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 of their employees, makes any warranty, 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.”

**5. NOTICE REGARDING THE PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS -- SENSE OF CONGRESS**

It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available under this award should be American-made.



**MISSOURI**  
**DEPARTMENT OF**  
**NATURAL RESOURCES**

**EXHIBIT D**  
**ARRA SPECIAL TERMS AND CONDITIONS**  
**MISSOURI DEPARTMENT OF NATURAL RESOURCES**  
**Federal Subgrants**  
**Special Terms and Conditions Related to Transform Missouri**  
**and the**  
**American Recovery and Reinvestment Act**

These terms and conditions highlight requirements which are especially pertinent to federal subgrants made by the Missouri Department of Natural Resources (department) using American Recovery and Reinvestment Act funds. These terms and conditions do not set out all of the provisions of the applicable laws and regulations, nor do they represent an exhaustive list of all requirements applicable to this award. These terms and conditions do not replace the general terms and conditions or other terms and conditions as they apply to the subgrant award. These terms and conditions are to be followed in addition to all other terms and conditions.

**I. Program Reporting Requirements and Certification**

In accordance with the American Recovery and Reinvestment Act of 2009 (ARRA), §3, funds made available under ARRA should be used to preserve and create jobs and promote economic recovery; assist those most impacted by the recession; provide investment 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; and to stabilize State and local government budgets in order to minimize and avoid reductions in essential services and counterproductive state and local tax increases. ARRA funds should be managed and expended so as to achieve the purposes specified as quickly as possible consistent with prudent management.

Congress has specifically mandated that all ARRA recipients that receive funds directly from the federal government must report on the use of said funds for purposes of transparency and oversight. All funds issued under ARRA are subject to unparalleled scrutiny, with specific distribution and reporting requirements by the federal government and the State of Missouri.

ARRA funds are derived from a unique funding source and shall be tracked separately at all times. Accordingly, it is agreed and understood that by accepting ARRA funds through this contract that each subrecipient assures that it, as well as its subrecipients if required by future OMB guidance, will fully comply with the requirements herein and any requirements hereafter issued by the federal government or the State of Missouri for compliance with ARRA and other related federal and state laws. Further, it is understood that this contract is subject to all applicable terms and conditions of ARRA. It is anticipated that future guidance on requirements for tracking and reporting expenditures of ARRA funds will be issued by the Director of the Office of Management and Budget (OMB) or other federal agencies. Each subrecipient assures that it, as well as its subrecipients if required by future OMB guidance, will comply with all such requirements as published at any time during the contract period in order to allow for the accountability of ARRA funds in a manner that ensures transparency and accountability in accordance with all program and ARRA requirements.

ARRA, §1512, referred to as the Jobs Accountability Act, sets forth certain reporting requirements that the State of Missouri must comply with and submit to the federal government no later than ten (10) days after the end of each calendar quarter beginning July 10, 2009. Accordingly, the subrecipient assures that it, as well as its subrecipients if required by future OMB guidance, shall submit the following information in a timely manner to the State of Missouri, Department of Natural Resources, no later than two (2) working days after the end of each calendar quarter, with the **first quarterly report due by 12:00 PM (CST) Friday, April 2, 2010.**

- (1) The total amount of ARRA funds the recipient received from the State of Missouri;

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- (2) The dollar amount of ARRA Funds that were expended or obligated for each project or activity;
- (3) A detailed list of all projects or activities for which ARRA funds were expended or obligated, including:
  - the name of the project or activity;
  - a description of the project or activity;
  - an evaluation of the completion status of the project or activity;
  - an estimate of the number of jobs created and the number of jobs retained by the project or activity; and
  - for infrastructure investments, the purpose, total cost, and rationale for funding the infrastructure investment with funds made available under ARRA, and the name of the person to contact if there are concerns with the infrastructure investment;
- (4) Detailed information on any subcontracts or subgrants awarded by the recipient to include the data elements required to comply with the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109–282, hereafter referred to as the “Transparency Act”), allowing aggregate reporting on awards below \$25,000 or to individuals, as prescribed by the Director of the Office of Management and Budget; and
- (5) A 2008 amendment to the Transparency Act called the “Government Funding Transparency Act of 2008” (Public Law 110-252) added a requirement to collect compensation information on certain chief executive officers (CEOs) of the recipient and subrecipient entity. Accordingly, the subrecipient assures that it, as well as its subrecipients if required by future OMB guidance, shall report required information under the Transparency Act, including, but not limited to:
  - The name of the entity receiving the award;
  - The amount of the award;
  - The transaction type;
  - The funding agency;
  - The Catalog of Federal Domestic Assistance number;
  - The program source;
  - The location of the entity receiving the award, including four data elements for the city, State, Congressional district, and country;
  - The location of the primary place of performance under the award, including four data elements the city, State, Congressional district, and country;
  - A unique identifier of the entity receiving the award;
  - A unique identifier for the parent entity for the recipient, should the recipient be owned by another entity; and
  - The names and total compensation of the five most highly compensated officers of the company if it received: 1) 80 percent or more of its annual gross revenues in Federal awards; and 2) \$25M or more in annual gross revenue from Federal awards.

Standard data elements and federal instructions for use in complying with reporting requirements under §1512, ARRA, are pending review by the federal government, and were published in the Federal Register on April 1, 2009 [74 FR 14824], and are to be provided online at [www.FederalReporting.gov](http://www.FederalReporting.gov).

### **II. Buy American**

In accordance with ARRA, §1605, the subrecipient assures that it, as well as its subrecipients if required by future OMB guidance, will not use ARRA funds for a project for the construction, alternation, maintenance, or repair of a public building or public work unless all of the iron, steel and manufactured goods used in the project are produced in the United States in a manner consistent with United States obligations under international agreements. The subrecipient(s) understands that this requirement may only be waived by the applicable federal agency in limited situations as set out in ARRA, §1605.

### **III. Wage Rate Requirements**

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In accordance with ARRA, §1606, the subrecipient assures that it, as well as its subrecipients if required by future OMB guidance, shall fully comply with said section in that notwithstanding any other provision of law and in a manner consistent with other provisions of ARRA, 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 ARRA 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 (Davis-Bacon Act) or as determined by the Missouri Department of Labor and Industrial Relations in accordance with RSMo 290.550 through 290.580, whichever is higher. It is understood that the Secretary of Labor has the authority and functions set forth in Reorganization Plan Numbered 14 or 1950 (64 Stat. 1267; 5 U.S.C. App.) and section 3145 of title 40, United States Code.

### **IV. Whistleblower Protection**

In accordance with ARRA, §1553, the subrecipient assures that it, as well as its subrecipients if required by future OMB guidance, shall fully comply with said section, including, but not limited to, assuring that its employees will 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 federal government or any representative thereof, the State of Missouri, a person with supervisory authority over the employee (or such other person working for the employer who has the authority to investigate, discover, or terminate misconduct), a court or grand jury any information that the employee reasonably believes is evidence of: 1) gross mismanagement of a contract or grant relating to ARRA; 2) a gross waste of ARRA funds; 3) a substantial and specific danger to public health or safety related to the implementation or use of ARRA funds; 4) an abuse of authority related to the implementation or use of ARRA funds; or 5) a violation of law, rule, or regulation related to this contract (including the competition for or negotiation of a contract) or grant, awarded or issued relating to ARRA funds. In accordance with ARRA, §1553(e), the subrecipient assures that it, as well as its subrecipients if required by future OMB guidance, shall post notice of the rights and remedies provided in ARRA, §1553.

### **V. Inspection of Documents**

In accordance with ARRA, §§902, 1514 and 1515, the subrecipient assures that it, as well as its subrecipients if required by future OMB guidance, will cooperate with any representative of the State of Missouri, Comptroller General, or appropriate inspector general appointed under §3 or 8G of the Inspector General Act of 1978 (5 U.S.C. App.) in the examination of its records that pertain to, and involve transactions relating to this contract, and agrees that it and its personnel can be interviewed by said entities regarding this contract and related program.

### **VI. Additional Restrictions of ARRA Funds**

In accordance with ARRA, §1602, the subrecipient assures that it, as well as its subrecipients if required by future OMB guidance, will give preference to activities, funded by ARRA for infrastructure investment, that can be started and completed expeditiously, including a goal of using at least 50 percent of the funds for activities that can be initiated not later than 120 days after the enactment of ARRA and in a manner that will maximize job creation and economic benefit.

In accordance with ARRA, §1604, the subrecipient assures that it, as well as its subrecipients if required by future OMB guidance, shall not use ARRA funds for any casino or other gambling establishment, aquarium, zoo, golf course or swimming pool.

In accordance with ARRA, §1554, the subrecipient assures that it, as well as its subrecipients if required by future OMB guidance, will award contracts funded in whole or in part with ARRA funds as fixed-price contracts through the use of competitive procedures. It will also provide a summary to the State of Missouri, Department of Natural Resources of any said contract awarded by the subrecipient assures that it, as well as its subrecipients if required by future OMB guidance, that is not fixed-price and not awarded using competitive procedures for posting in a special section of the Web site established in ARRA, §1526.

In accordance with ARRA, §1609, the subrecipient assures that it, as well as its subrecipients if required by future OMB guidance, will comply with any applicable environmental impact requirements of the National Environmental Policy Act of 1970 (NEPA), as amended. (42 U.S.C. 4371, *et seq.*). The subrecipient assures that it, as well as its subrecipients if required by future OMB guidance, will submit information on the

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status and progress of those projects and activities using ARRA funds subject to NEPA pursuant to any requirements of the Council on Environmental Quality (CEQ) and OMB.

In accordance with ARRA, §1512(h), the subrecipient assures that it, as well as its subrecipients if required by future OMB guidance, shall register in the Central Contractor Registration (CCR) database at [www.ccr.gov](http://www.ccr.gov), and maintain current registration at all time during the pendency of this contract. In order to register in CCR, a valid Dun and Bradstreet Data Universal Numbering System (DUNS) Number is required. See [www.dnb.com](http://www.dnb.com).

### **VII. Employment of Unauthorized Aliens Prohibited**

Pursuant to §285.530.1, RSMo, the subrecipient assures that it, as well as its subrecipients if required by future OMB guidance, do not knowingly employ, hire for employment, or continue to employ an unauthorized alien to perform work within the State of Missouri, and shall affirm, by sworn affidavit and provision of documentation, its enrollment and participation in a federal work authorization program with respect to the employees working in connection with the contracted services. Further, the subrecipient assures that it, as well as its subrecipients if required by future OMB guidance, shall sign an affidavit affirming that it does not knowingly employ any person who is an unauthorized alien in connection with the contracted services.

In accordance with sections 285.525 to 285.550, RSMo a general contractor or subcontractor of any tier shall not be liable when such contractor or subcontractor contracts with its direct subcontractor who violates subsection 1 of section 285.530, RSMo if the contract binding the contractor and subcontractor affirmatively states that the direct subcontractor is not knowingly in violation of subsection 1 of section 285.530, RSMo and shall not henceforth be in such violation and the contractor or subcontractor receives a sworn affidavit under the penalty of perjury attesting to the fact that the direct subcontractor's employees are lawfully present in the United States.

### **VIII. Enforceability**

If a subrecipient or one of its subrecipients fails to comply with all applicable federal and state requirements governing these funds, the State of Missouri may withhold or suspend, in whole or in part, funds awarded under the program, or recover misspent funds following an audit. This provision is in addition to all other remedies provided to the State of Missouri for recovery of misspent funds available under all applicable state and federal laws.

### **IX. Publication of Confidential Information**

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:

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, department shall have the right to use or disclose the data here to the extent provided in the award. 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 agreement may be published on the Internet and linked to the Web site [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 Web site 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.

**X. False Claims Act**

The subrecipient assures that it, as well as its subrecipients if required by future OMB guidance, shall promptly refer to the State of Missouri or other appropriate Inspector General any credible evidence that a principal, employee, agent, contractor, sub-grantee, 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.

**XI. Recovery Act Logo**

This project receives funding under the American Recovery and Reinvestment Act of 2009 (Recovery Act) and the subrecipient assures that it, as well as its subrecipients or loan recipients if required by future OMB guidance, must display the Recovery Act Logo in a manner that informs the public that the project is a Recovery Act investment. The ARRA logo may be obtained from the U.S. DOE/EPA grants office listed in this award document. If U.S. DOE/EPA logo is displayed along with the Recovery Act logo and logos of other participating entities, the U.S. DOE/EPA logo must not be displayed in a manner that implies that U.S. DOE/EPA itself is conducting the project. Instead, the DOE/EPA logo must be accompanied with a statement indicating that the grantee, subgrantee or loan recipient received financial assistance from U.S. DOE/EPA for the project.

**XII. Publications and Public Relation Events**

All publications which are intended for distribution and are financed, wholly or in part, by subgrant funds, must contain the following verbiage: Funds are made possible through the American Recovery and Reinvestment Act and the Transform Missouri initiative and administered by the Missouri Department of Natural Resources. Additionally, ARRA, Transform Missouri, and the department logos, as provided by the department to the subrecipients, must be included in all of the aforementioned publications.

The subrecipient assures that it, as well as its subrecipients, shall submit to the department two draft copies of each publication and other printed materials which are intended for distribution and are financed, wholly or in part, by subgrant funds. The subrecipient nor its subrecipients shall not print or distribute any publication until receiving written approval by the grant manager.

The subrecipient assures that it, as well as its subrecipients, shall notify the department five business days in advance of all public relations events related to ARRA-funded weatherization activities whereby the public and/or media is invited to participate and provide opportunity for involvement.

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

- (1) To maximize the transparency and accountability of funds authorized under the American Recovery and Reinvestment Act of 2009 (Pub. L. 111--5) (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, subrecipients agree to maintain records that identify adequately the source and application of Recovery Act funds. OMB Circular A--102 is available at <http://www.whitehouse.gov/omb/circulars/a102/a102.html>.
- (2) For subrecipients covered by the Single Audit Act Amendments of 1996 and OMB Circular A--133, "Audits of States, Local Governments, and Non-Profit Organizations," subrecipients 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 <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.
- (3) Subrecipients agree to separately identify to each subrecipient, and document at the time of subaward and at the time of disbursement of funds, the Federal award number, CFDA number, and amount of Recovery Act funds. When a subrecipient awards Recovery Act funds for an existing program, the

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information furnished to subrecipients shall distinguish the subawards of incremental Recovery Act funds from regular subawards under the existing program.

- (4) Subrecipients agree to require their subrecipients to include on their SEFA information to specifically identify Recovery Act funding similar to the requirements for the subrecipient SEFA described above. This information is needed to allow the subrecipient 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.