# STATE OF TENNESSEE
# ENERGY EFFICIENCY AND CONSERVATION BLOCK GRANT (EECBG) PROGRAM
# INFRASTRUCTURE INVESTMENT AND JOBS ACT SECTION 40552
# GRANT PROGRAM MANUAL

November 2025

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## GRANT PROGRAM OVERVIEW

The U.S. Department of Energy's (U.S. DOE) Energy Efficiency and Conservation Block Grant (EECBG) Program, funded by the Infrastructure Investment and Jobs Act (IIJA), is designed to assist states, local governments, and Tribes in implementing strategies to reduce energy use and improve energy efficiency.

## STATE OF TENNESSEE EECBG PROGRAM

The State of Tennessee EECBG Program will provide funding to assist local governments in creating and implementing strategies to improve energy efficiency and community resiliency in a manner that maximizes benefits to the local community.

TDEC's Office of Energy Programs (TDEC OEP) has allocated a total of $4,607,296 as subawards[1] to units of local government in Tennessee that were not eligible for direct formula grants from U.S. DOE. This total represents $2,094,241 of the State's IIJA EECBG formula funding allocation, plus $2,513,055 from the State's IIJA Revolving Loan Fund (RLF) Capitalization Grant Program formula allocation that can be used for grants and/or technical assistance to supplement the EECBG funding.

To be eligible for grants and technical assistance funding, the Grantee must:

- Conduct a majority of its business in Tennessee.
- Own or operate one or more commercial buildings (including public buildings) or commercial space within a building that serves multiple functions, such as a building for commercial or residential operations.
- Have fewer than 500 employees.

TDEC OEP has awarded grants to FY2025 distressed counties in Tennessee, as determined by the Appalachian Regional Commission.[2] More information and a list of distressed counties in Tennessee can be accessed here. The formula utilized by TDEC OEP to determine allocations for each of the distressed counties takes into account a variety of data points, including energy burden[3], number of high-need buildings (i.e., Title 1 schools and affordable housing properties) on a per capita basis, and the TDEC Ability to Pay Index.

For the distressed counties that have been awarded grants, Tennessee's EECBG Program will provide technical assistance, including energy audits, and fund energy efficiency upgrades for county-owned, commercial buildings with multi-use purposes that support community resilience or that are deemed critical facilities. Examples of eligible buildings include K-12 schools, hospitals, emergency management facilities, and/or community centers, all of which may also function as

[1] Grants awarded under Tennessee's EECBG Program are subawards (also called subgrants), and a Grantee is a subrecipient.

[2] Each year, the Appalachian Regional Commission (ARC) prepares an index of county economic status for every county in the United States. Economic status designations are identified through a composite measure of each county's three-year average unemployment rate, per capita market income, and poverty rate. Based on these indicators, each county is then categorized as distressed, at-risk, transitional, competitive, or attainment.

[3] Nationally, low-income households spend a larger portion of their income on home energy costs (e.g., electricity, natural gas, and other home heating fuels) than other households spend. This measure is often referred to as a household's "energy burden." https://www.energy.gov/sites/prod/files/2019/01/f58/WIP-Energy-Burden_final.pdf

emergency shelters or staging areas during emergency response and recovery efforts.

## Eligible Projects/Costs:

TDEC OEP has prioritized the implementation of eligible measures in county-owned commercial buildings located within the distressed counties. The grants will fund projects that improve the resilience of the communities in these counties by focusing on county-owned buildings that serve or will serve multi-use purposes, such as:

- K-12 schools,
- Government-owned hospitals,
- Emergency management facilities, and/or
- Community centers.

These facilities may also serve as emergency shelters or staging areas during response and recovery efforts.

### Technical Assistance for Grantees

TDEC OEP will support the Grantee in applying for 40-60 hours of no-cost technical assistance through the U.S. DOE Energy to Communities (E2C) Expert Match Program. This assistance will help determine optimal facilities to target for energy audits and subsequent retrofits and upgrades.

After the Grantee has received technical assistance from E2C, the Grantee will provide to TDEC OEP a proposed list of facilities to undergo an energy audit. Only after TDEC OEP approval will the energy audits be conducted at no cost to the Grantee.

### Energy Audits & Retrofits

To be reimbursable under this Grant, any retrofit or upgrade must be recommended by the energy audit. Grantees will retrofit existing facilities with cost-effective energy-efficient measures or the implementation of energy conservation devices to improve energy efficiency and reduce energy costs.

**Required Elements of Qualifying Energy Efficiency Audits and Upgrades**

| | |
|---|---|
| Commercial Energy Audits | • Determine the overall consumption of energy of the facility.<br>• Identify and recommend lifecycle cost-effective opportunities to reduce the energy consumption of the facility.<br>• Identify the period and level of peak energy demand for each building within the facility of the eligible recipient and the sources of energy consumption that are contributing the most to that period of peak energy demand.<br>• Recommend controls and management systems to reduce or redistribute peak energy consumption.<br>• Estimate the total energy and cost savings potential for the facility of the eligible recipient if all recommended upgrades and retrofits are implemented, using software approved by U.S. DOE. |

| | |
|---|---|
| Commercial Upgrades and Retrofits | • Recommended in the qualifying commercial energy audit completed for the building or facility of the eligible recipient.<br>• Are lifecycle cost-effective.<br>• Improve, with respect to the building or facility of the eligible recipient, at least one of the following:<br>  ○ The physical comfort of the building or facility occupants.<br>  ○ The energy efficiency of the building or facility.<br>  ○ The quality of the air in the building or facility.<br>• Lead to at least one of the following outcomes:<br>  ○ Reduce the energy intensity of the building or facility of the eligible recipient.<br>  ○ Improve the control and management of energy usage of the building or facility to reduce demand during peak times. |

After the energy audit is performed, recommended upgrades and retrofits must be approved by TDEC OEP in writing prior to commencement of related procurement and the performance of the retrofits and upgrades.

Grantees should work closely with TDEC OEP and the Tennessee Valley Authority (TVA) to leverage TVA's commercial energy efficiency rebates to further reduce the cost of energy-efficient retrofits. Additionally, Grantees are encouraged to evaluate federal tax incentives that may be applicable to their projects[4].

### Key Requirements for Eligible Activities/Measures

Eligible activities and/or measures under Tennessee's EECBG Program must:

- Have been recommended in the energy audit completed for the facility;
- Be lifecycle cost-effective;
- Improve, with respect to the facility, at least one of the following:
  - The physical comfort of the building or facility occupants,
  - The energy efficiency of the building or facility,
  - The quality of the air in the building or facility;
- Lead to at least one of the following outcomes:
  - Reduce the energy intensity of the facility,
  - Improve the control and management of energy usage of the building or facility to reduce demand during peak times; and
- Be approved by TDEC OEP in writing prior to the commencement of related procurement and the performance of the retrofits and upgrades.

**Cost Match: There is no Grantee cost match requirement under Tennessee's EECBG Program.**

## Grant Project/Reimbursement Timeline:

[4] Clean energy tax incentives may be eligible for elective pay. The IRS has provided information about the modification of some of these incentives. The National League of Cities provides a step-by-step guide for filing under elective pay.

- **Timeline for Project Completion**: Grantees will have 24 months from the effective date of the Grant Contract to complete the project. No-cost extensions will be evaluated on a case-by-case basis.
- **Record Keeping and Compliance**: The Grantee is responsible for maintaining records adequate to demonstrate that costs claimed have been incurred, are reasonable, allowable, and allocable, and comply with the Federal cost principles outlined in 2 CFR Part 200 for five years from the date of final payment. The Grantee is required to provide the records to TDEC OEP, and the records are subject to audit.
- **Reimbursement Process**: Payment of project expenses will take place on a reimbursement basis. The Grantee must invoice TDEC OEP no more often than monthly, with all necessary supporting documentation as outlined in Section C.5 of the Grant Contract. Grantees should include only reimbursement requests for actual expenditures that are reasonable, allowable, and allocable. TDEC OEP will not reimburse expenses that are incurred prior to the start date of the Grant Contract.

## Additional Considerations:

- Grantees must attend any mandatory compliance workshops and/or webinars scheduled by TDEC OEP. These workshops and/or webinars will provide guidance on a variety of program requirements and compliance processes, including competitive procurement requirements, compliance with federal requirements (e.g., Title VI training, Build America Buy America, Davis-Bacon, National Historic Preservation Act), invoice submission, reporting, onsite monitoring, and reimbursement. Access to mandatory workshops and/or webinars will be provided at the necessary time.
- Site visits are an ongoing part of the program to ensure compliance and project success.
- Any information submitted in response to TDEC for the EECBG Program will be considered public record and will be subject to disclosure to the public. The public may request such information by submitting a records request to TDEC OEP. Specific request instructions are provided on the TDEC Public Records Webpage, including the name, title, and contact information for the TDEC OEP staff tasked with responding to such records requests.
- The Grantee must certify compliance with requirements of Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d-1, pursuant to the guidelines established by the Tennessee Department of Human Resources' Title VI Compliance Office, by completing all of the following items:
    - Provide the name and contact information of the Grantee's Title VI Coordinator to TDEC OEP.
    - Ensure the Grantee's Policies and Procedures manual contains a Title VI section with information on: (a) Filing a complaint; (b) Investigations; (c) Report of findings; (d) Hearings and appeals; (e) Description of Title VI Training Program; (f) Limited English Proficiency (LEP) procedure; and (g) Retaliation.
    - Train all staff (regular, contract, volunteer) on Title VI upon employment and annually thereafter. Training documentation shall be made available upon request of TDEC OEP and include: 1) dates and duration of each training; 2) list of staff completing training on each date.
    - Annually complete and submit a Title VI self-survey as supplied by TDEC OEP.
    - Implement a process and provide documentation to ensure service recipients are informed of Title VI and how to file a discrimination complaint.

## REQUIREMENTS FOR APPROVED PROJECTS:

### Build America, Buy America (BABA) Requirement

None of the funds provided under the TDEC OEP EECBG Program may be used for a project for infrastructure unless:

- All iron and steel used in the project is produced in the United States—this means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States;
- All manufactured products used in the project are produced in the United States—this means the manufactured product was manufactured in the United States; and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation. See 2 CFR 184.5 for determining the cost of components for manufactured products; and
- All construction materials are manufactured in the United States—this means that all manufacturing processes for the construction material occurred in the United States. See 2 CFR 184.6 for construction material standards, including additional standards for some specified construction materials in order for those materials to be considered "produced in the United States."

2 CFR Part 184 contains definitions and additional information about the BABA requirement.

U.S. DOE's Build America, Buy America website also provides information regarding the BABA requirement.

#### Grantee Requirements

The Grantee must ensure that the BABA Requirement flows down to all subawards, contracts, subcontracts, and purchase orders for work performed under the infrastructure project.

Prior to undertaking procurement activities for articles, materials, and supplies subject to the BABA Requirement, the Grantee must demonstrate to TDEC OEP that the solicitation contains information regarding the BABA requirement.

Grantees must also submit to TDEC OEP certifications or equivalent documentation for proof of compliance that those articles, materials, and supplies that are used in the infrastructure project, not covered by a waiver or exemption, are produced in the United States.

The certification or proof of compliance must be provided by the suppliers or manufacturers of the iron, steel, manufactured products, and construction materials, and flow up from all subrecipients, contractors, and vendors to be provided to TDEC OEP.

TDEC OEP must keep these certifications with the award/project files and be able to produce them upon request from U.S. DOE, auditors, or U.S. Office of Inspector General.

Although DOE does not require a specific format for the certification, the following elements must be present:

- A listing of all products covered by the certification, including their category (e.g., iron, steel, manufactured product, or construction material);
- A recitation of the relevant "produced in the United States" standard for any categories (iron, steel, manufactured product, or construction material) provided in the above list, to ensure the manufacturer properly understands the standards to be met;
- A clear statement that the products listed meet the relevant "produced in the United States" standard(s);
- A signature from an authorized representative of the manufacturer certifying the contents of the compliance statement; and
- Any other information the recipient deems necessary for the certification to demonstrate compliance with the BABA requirements.

A sample letter will be provided by TDEC OEP.

## Public Infrastructure

An infrastructure project is any activity related to the construction, alteration, maintenance, or repair of infrastructure, regardless of whether infrastructure is the primary purpose of the project. Infrastructure includes buildings and real property. See also 2 CFR § 184.4(c) and (d).

The Buy America Requirement does not apply to non-public (private) infrastructure. For purposes of the Grant Contract, infrastructure should be considered "public" if it is: (1) publicly owned (owned, operated, funded and managed, in whole or in part, by any unit or authority of a Federal, State, or Local government-including U.S. Territories and Indian Tribes); or (2) privately owned but utilized primarily for a public purpose. Infrastructure should be considered to be "utilized primarily for a public purpose", and therefore "public", if it is privately owned but operated on behalf of the public or is a place of public accommodation.

All projects funded by the EECBG Program are public infrastructure.

### *Application to Articles, Materials, and Supplies*

The BABA Requirement only applies to those articles, materials, and supplies that are consumed in, incorporated into, or permanently affixed to the infrastructure in the project. It does not apply to:

- Tools, equipment, and supplies, such as temporary scaffolding, brought into the construction site and removed at or before the completion of the infrastructure project.
- Equipment and furnishings, such as movable chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure project but are not an integral part of the structure or permanently affixed to the infrastructure project.

The BABA Requirement only applies to an article, material, or supply classified into one of the following categories based on its status at the time it is brought to the work site for incorporation into an infrastructure project:

- Iron or steel products;
- Manufactured products; or
- Construction materials.*

An article, material, or supply incorporated into an infrastructure project should not be considered to fall into multiple categories but rather must meet the BABA Requirement for only the single category in which it is classified. All iron and steel, manufactured products, and construction materials used in the infrastructure project must be produced in the United States.

*Section 70917 (c) materials are excluded from construction materials and may be used without meeting the relevant "produced in the United States" standard. Section 70917(c) Materials are cement and cementitious materials; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives as provided in section 70917(c) of BABA. Asphalt concrete pavement mixes are typically composed of asphalt cement (a binding agent) and aggregates such as stone, sand, and gravel. Accordingly, asphalt is also excluded from the definition of construction materials.

Section 70917(c) materials, on their own, are not manufactured products. Further, Section 70917(c) materials should not be considered manufactured products when they are used at or combined proximate to the work site—such as is the case with wet concrete or hot mix asphalt brought to the work site for incorporation.

Certain Section 70917(c) materials (such as stone, sand, and gravel) may be used to produce a manufactured product, such as precast concrete. Precast concrete is made of components, is processed into a specific shape or form, and is in such state when brought to the work site. Furthermore, wet concrete should not be considered a manufactured product if not dried or set prior to reaching the work site.

Further clarification is provided in 2 CFR 184 on the circumstances under which a determination is made that Section 70917(c) materials should be treated as components of a manufactured product. That determination is based on consideration of: (i) the definition of the "manufactured products" at 2 CFR 184.3; (ii) the definition of "section 70917(c) materials" at 2 CFR 184.3; (iii) instructions at 2 CFR 184.4(e) on how and when to categorize articles, materials, and supplies; and (iv) instructions at 2 CFR 184.4(f) on how to apply the BABA Requirement by category.

### *Waivers*

When necessary, TDEC OEP may apply for, and U.S. DOE may grant, a waiver from the BABA Requirement. Requests to waive the application of the BABA must be in writing to U.S. DOE. Waiver requests are subject to review by U.S. DOE and the Office of Management and Budget, as well as a public comment period of no less than 15 calendar days.

Grantees should contact TDEC OEP as soon as a Grantee is aware that a waiver may be necessary.

Waivers must be based on one of the following justifications:

- Public Interest- Applying the Buy America Requirement would be inconsistent with the public interest;
- Non-Availability- The types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality; or
- Unreasonable Cost- The inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25 percent.

## Davis-Bacon Act Requirements

TDEC OEP EECBG Program grant contracts are funded under Division D of IIJA. All laborers and mechanics employed by the Grantee, contractors, or subcontractors in the performance of construction, alteration, or repair work funded in whole or in part under the Grant Contract, must be paid wages at rates not less than those prevailing on similar projects in the locality, as determined by the Secretary of Labor in accordance with subchapter IV of Chapter 31 of Title 40, United States Code commonly referred to as the "Davis-Bacon Act" (DBA).

Grantees must provide written assurance acknowledging the DBA requirements and confirming that the laborers and mechanics performing construction, alteration, or repair work on projects funded in whole or in part by the Grant Contract are paid or will be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by subchapter IV of Chapter 31 of Title 40, United States Code (Davis-Bacon Act). The U.S. Department of Labor has provided FAQs for IIJA construction projects.

### Summary of Roles and Responsibilities

To ensure clear delineation of responsibilities related to Davis-Bacon Act compliance and use of LCPtracker, the following summarizes primary duties:

#### Grantor Requirements

TDEC OEP will:

- Provide system setup, user account management, access to LCPtracker for grantees and subcontractors, and training and technical support.
- Submit proposed wage determinations (WDs) for set-up information in LCPtracker for grantees and subcontractors as soon as possible and no later than one month prior to start of construction.
- Monitor all weekly payroll submissions.
- Ensure compliance with weekly payroll submissions and work with grantees and subcontractors to correct submissions as needed.
- Submit Semi-Annual DBA Enforcement Report.

#### Grantee Requirements

Grantees must comply with all DBA requirements, including, but not limited to:

- Ensuring that wage determination(s) and Davis-Bacon clauses are requirements are flowed down to and incorporated into any applicable subcontracts or subrecipient awards;
- Being responsible for compliance by any subcontractor or subrecipient with the Davis-Bacon labor standards;
- Receiving and reviewing certified weekly payrolls submitted by all subcontractors and subrecipients for accuracy and to identify potential compliance issues (example of the DBA Weekly Certified Payroll Form);
- Maintaining original certified payrolls for five years after the completion of the project and

make those payrolls available to U.S. DOE or the U.S. Department of Labor upon request, as required by 29 CFR 5.6(a)(2)[5];
- Conducting payroll and job-site reviews for construction work, including interviews with employees, with such frequency as may be necessary to assure compliance by its subcontractors and subrecipients and as requested or directed by the U.S. DOE;
- Cooperating with any authorized representative of the Department of Labor in their inspection of records, interviews with employees, and other actions undertaken as part of a Department of Labor investigation;
- Posting in a prominent and accessible place the wage determination(s) and Department of Labor Publication: WH-1321, Notice to Employees Working on Federal or Federally Assisted Construction Projects.
- Notifying TDEC OEP of all labor standards issues, including all complaints regarding incorrect payment of prevailing wages and/or fringe benefits, received from the recipient, subrecipient, contractor, or subcontractor employees; significant labor standards violations, as defined in 29 CFR 5.7; disputes concerning labor standards pursuant to 29 CFR parts 4, 6, and 8 and as defined in FAR 52.222-14; disputed labor standards determinations; Department of Labor investigations; or legal or judicial proceedings related to the labor standards under this Grant Contract, a subcontract, or subrecipient award;
- Participating in DBA compliance training and maintaining competency in DBA compliance. U.S. DOE is providing grantees access to LCPtracker, a software application that helps with DBA compliance. TDEC OEP will notify the Grantee of any U.S. DOE sponsored Davis-Bacon Act compliance trainings. The Department of Labor offers free Prevailing Wage Seminars several times a year that meet this requirement, at https://www.dol.gov/agencies/whd/government-contracts/construction/seminars/events.
- The use of LCPtracker software is mandatory. TDEC OEP will provide support to grantees on the use of LCPtracker. Grantees may either enter certified payroll data manually or upload it electronically (e.g., CSV or PDF format) in LCPtracker. Uploaded files must still be reviewed and approved by the prime contractor and TDEC OEP.

### Contractor/subcontractor Requirements

- Contractors and subcontractors must comply with all DBA requirements, including, but not limited to: Accurate and timely submission of certified payrolls; weekly sign-offs; and full cooperation during reviews, interviews, and audits.

- Training Requirements and Audit Readiness
  Grantees are responsible for ensuring that all users complete the applicable U.S. DOE LCPtracker training prior to payroll entry in LCPtracker and must retain attendance documentation for audit purposes. TDEC OEP will distribute registration links to all grantees and subrecipients as sessions become available.

## U.S. DOE Implementation of National Environmental Policy Act (NEPA) and Other Acts

U.S. DOE has issued new regulations and procedures relative to its implementation of NEPA. This

[5] Although federal law requires these records to be maintained for three years, the Grant Contract requires all records to be maintained for five years.

manual will be amended to reflect changes to this section as TDEC OEP receives updated information from U.S. DOE.

No work may commence on project activities prior to TDEC OEP approval.

U.S. DOE must comply with NEPA prior to authorizing the use of Federal funds. U.S. DOE must also consider the effects on historic properties, pursuant to Section 106 of the National Historic Preservation Act (NHPA). Additionally, U.S. DOE must consider the impacts to floodplains and wetlands, pursuant to 10 CFR Part 1022 – Compliance with Floodplain and Wetland Environmental Review Requirements. To streamline these required reviews, U.S. DOE carries out each of these reviews under the umbrella of its NEPA review. The NEPA and Historic Preservation Training Website for the Office of State and Community Energy Programs provides more information about this review and links to the documents referenced below.

If activities don't fall within the current U.S. DOE NEPA determinations issued for the EECBG Program, TDEC OEP must submit an Environmental Questionnaire (EQ-1) in the Project Management Center for DOE to complete a review. Grantees must provide the requested information to TDEC OEP for review.

## GENERAL CONDITIONS:

- As a subrecipient of federal funds, the Grantee must comply with 2 CFR §§ 200.317-200.327 when procuring property (e.g., goods, materials, supplies, equipment) or services using EECBG or RLF funds. The Grantee must maintain and use documented procurement procedures consistent with State and local law, including applicable provisions of Tenn. Code Ann. Title 4, Chapter 56; Title 12, Chapter 3; and Title 12, Chapter 4. All procurements must be conducted in a competitive manner unless provided otherwise in 2 CFR § 200.320. In each instance where it is determined that use of a competitive procurement method is not practical, supporting documentation must include a written justification for the decision and for the use of a non-competitive procurement. The Grantee must obtain prior approval from TDEC OEP before procuring any equipment or services under the Grant Contract.

- TDEC OEP will make payment to the Grantee based on review of reimbursement requests (referred to as "invoices" in the Grant Contract) detailing eligible costs with accompanying invoices, actual costs at time of purchase, and documentation of facility infrastructure upgrades or retrofit installation and operability. TDEC OEP will not fund costs in excess of the Grant Contract amount, and reimbursements must adhere to the Grant Budget as provided in the Grant Contract.

- Grantees will only be reimbursed for costs incurred by the Grantee during the Grant Contract period of performance.

- TDEC OEP will exercise monitoring activities including, but not limited to, conducting site visits; reviewing performance and financial reports; provide technical assistance and/or temporary intervention in unusual circumstances to address deficiencies that develop during the project; assuring compliance with Grant Contract terms and conditions; and reviewing technical performance after project completion to ensure that the project objectives have been accomplished.

- The Grantee must submit quarterly Performance Reports, using the attached Quarterly Performance Reporting Template, that include qualitative and quantitative information on the project progress. Quarterly Performance Reports shall be due to TDEC OEP no later than January 15, April 15, July 15, and October 15 of each year of the Grant Contract term.
    - Performance Reports shall include:
        - Tasks and Milestones;
        - Budget Outlays; and
        - Metrics.
    - Additional required reporting shall include:
        - Financial Reports;
        - Reporting tied to the National Environmental Policy Act (NEPA) and the National Historic Preservation Act (NHPA), if applicable;
        - Davis-Bacon Reports:
            - Weekly Payroll Reports due within seven (7) days of each pay period during construction.
            - Semi-Annual Report covering the periods of October 1 through March 31 and April 1 through September 30.
        - Any other reports required by the U.S. Department of Energy.
        - The Grantee must use the quarterly Performance Report template provided by TDEC OEP (which can be found at the end of this document).
        - The Grantee must provide all information required to complete the reports, and TDEC OEP will provide technical assistance to ensure that the information is accurate.
    - Failure to submit required reports may result in the required refund of any and all payments made to the Grantee by TDEC OEP.

- If the Grantee does not comply with the requirements of the Grant Contract, TDEC OEP may delay payment processing, withhold payments, or require the Grantee to refund payments already made. Continued noncompliance may result in termination of the Grant Contract for cause.

## PROGRAM CONTACT:

All communications (regular mail, express mail, electronic mail, or fax) concerning this application and award process must be addressed to:

The Office of Energy Programs – Energy Efficiency and Conservation Block Grant
Tennessee Department of Environment and Conservation
C/O Angela McGee, Deputy Director of Operations
Davy Crockett Tower 9th Floor
500 James Robertson Parkway
Nashville, TN 37243
TDEC.OEP@tn.gov
Phone: 615-852-0131

## APPENDIX A - ASSURANCE OF COMPLIANCE

Davis-Bacon and Related Acts
The Grantee hereby assures that all laborers and mechanics on projects funded directly by or assisted in whole or in part by and through the Grant Contract will be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by subchapter IV of Chapter 31 of title 40, United States Code (Davis-Bacon Act) (Attachment 1).

Build America, Buy America
The Grantee acknowledges that the Build America, Buy America Act (BABA) requires that TDEC OEP will not provide federal financial assistance for "infrastructure projects" unless all of the iron, steel, manufactured products, and construction materials used in the project are produced in the United States" (Section 70914 of Public Law No. 117-58 Section 70901-52).

Title VI
The Grantee certifies compliance with requirements of Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d-1, pursuant to the guidelines established by the Tennessee Department of Human Resources' Title VI Compliance Office and outlined in this document.

State Historic Preservation Office
The Grantee has agreed to adhere to all the Stipulations outlined in the State of Tennessee's historic preservation Programmatic Agreement with U.S. DOE (Attachment 2).

Contract Work Hours and Safety Standard Act
The Grantee has agreed to comply with the Contract Hours and Safety Standard Act at 40 U.S.C. section 3701 et seq. (Attachment 1).

The person whose signature appears below is authorized to sign this assurance and commit the Applicant to the above provisions.

| | |
|---|---|
| Name of Authorized Official | Signature of Authorized Official |
| Street Address | Title of Authorized Official (please type or print) |
| City, State, Zip | Date |

## APPENDIX B - QUARTERLY PERFORMANCE REPORTING TEMPLATE

The data collected through this Quarterly Performance Reporting Template will be used to monitor the progress and effectiveness of the funded projects. This includes tracking key metrics such as energy savings, project milestones, and budget expenditures. The information will help TDEC OEP assess the overall impact of the projects, ensure compliance with Grant Contract requirements, and determine whether the projects are achieving the intended outcomes in improving energy efficiency and community resilience.

Quarterly reports are due to TDEC OEP within 15 calendar days after the end of the quarterly reporting period (January 15, April 15, July 15, October 15).

Quarter/Year: _____

County Name: _____

Site Location Address(es): _____

Project Type: _____

Name of person completing the report: _____

Title of person completing the report: _____

| QUARTERLY METRICS: | THIS QUARTER | CUMULATIVE |
|---|---|---|
| **FUNDS SPENT: (**Include all expenditures incurred this quarter) | | |

| **Process Metrics** | | | |
|---|---|---|---|
| | Previously Reported | This Period | To Date |
| **Metric Area: 1. Buildings Retrofitted** | | | |
| Number of buildings retrofitted (count) | 0 | 0 | 0 |
| Square footage of buildings retrofitted (square feet) | 0 | 0 | 0 |
| Estimated project savings ($) annually (dollars) | $0.00 | $0.00 | $0.00 |
| Estimated project savings (kWh of electricity) annually (kilowatt-hours) | 0 | 0 | 0 |
| Estimated project savings (therms of natural gas) annually (therm) | 0 | 0 | 0 |
| Estimated project savings (gallons of fuel oil) annually (gallons) | 0 | 0 | 0 |
| Estimated project savings (therms of propane) annually (therm) | 0 | 0 | 0 |
| Estimated project savings (gallons of water) annually (gallons) | 0 | 0 | 0 |
| Estimated project savings (gallons of kerosene) annually (gallons) | 0 | 0 | 0 |
| Estimated project savings (tons of wood) annually (tons) | 0 | 0 | 0 |

| Infrastructure Investment Rationale (Project Description and Status): |
|---|
| |

| Remarks (problems, issues, variance from plan) |
|---|
| |

| Accomplishments, publicity, good news |
|---|
| |

| Additional information not captured elsewhere in the report should be included here |
|---|
| |

| Individuals that have worked on the project this quarter (include name, organization, job title, role in the project, start/end date (month/year), state of residence, collaboration with an individual or entity located in a foreign country in connection with this project. |
|---|
| |

## Process Metrics

I certify that to the best of my knowledge and belief the data and information presented above are correct.

| Type/print name of authorized official | Signature of authorized official |
|---|---|
| Title of official | Date |

*All records relating to submission and approval of contract deliverables are collected, maintained and stored in the Department of Environment and Conservation Office of Energy Programs.*

**ADDITIONAL INFORMATION:**

**OEP Use Only:**

Reviewed and verified by: _____ Date: _____

TDEC Office of Energy Programs

## APPENDIX C – MONTHLY INVOICE REQUEST FOR PAYMENT TEMPLATE

**TDEC Office of Energy Program - Energy Efficiency and Conservation Block Grant Program**

**MONTHLY INVOICE REQUEST FOR PAYMENT**

| | |
|---|---|
| **Grant Contract Number:** | **Grant Number: 85105** |

| | | |
|---|---|---|
| **Invoice Number:** | | |
| **Invoice Period:** | Beginning: | End: |

| |
|---|
| **Invoice Date:** |
| **Amount of this Request: $** |

| | |
|---|---|
| **Grantee/County Name:** | |
| **Grantee Edison Vendor ID:** | |
| **Project Location(s):** | |
| **Grantee Remittance Address:** | |
| | |

**Grantee Contact for Invoice Questions**

| |
|---|
| Name: |
| Email: |
| Phone number: |

| Budget Line-Item | Grant Budget | Amount of Grant Fund Previously Invoiced | Grant Balance | Amount Requested for Current Invoice | Cumulative Amount Invoiced | Ending Grant Balance |
|---|---|---|---|---|---|---|

| | | | | **Period** | | |
|---|---|---|---|---|---|---|
| Professional Fee, Grant & Award | | | | | | |
| Supplies, Telephone, Postage & Shipping, Occupancy, Equipment Rental & Maintenance, Printing & Publications | | | | | | |
| Capital Purchase | | | | | | |
| **Total** | | | | | | |

Type/print name of authorized official

Signature of authorized official

Title of official

Date

*All records relating to submission and approval of contract deliverables are collected, maintained and stored in the Department of Environment and Conservation Office of Energy Programs.*

**OEP Use Only:**

Reviewed and verified by: _____ Date: _____

TDEC Office of Energy Programs

**Energy Efficiency and Conservation Block Grant Program**

**MONTHLY INVOICE REQUEST FOR PAYMENT – INVOICE DETAIL**

| | **Budget Line-Item**<br><br>**Payee/Vendor Name** | **Contractor Invoice Number** | **Contractor Invoice Date** | **Total Amount Invoiced** |
|---|---|---|---|---|
| | Professional Fee, Grant & Award | | | |
| A1 | | | | $ |
| A2 | | | | $ |
| | **Total Professional Fee, Grant & Award** | | | $ |
| | | | | |
| | Supplies, Telephone, Postage & Shipping, Occupancy, Equipment Rental & Maintenance, Printing & Publications | | | $ |
| B1 | | | | $ |
| B2 | | | | $ |
| | **Total Supplies, Telephone, Postage & Shipping, Occupancy, Equipment Rental & Maintenance, Printing & Publications** | | | $ |
| | | | | |
| | Capital Purchase | | | $ |
| C1 | | | | $ |
| C2 | | | | $ |
| | **Total Capital Purchase** | | | $ |
| | | | | |
| | **TOTAL** | | | $ |

## Attachment 1 – Davis-Bacon and Related Acts
### Subpart A—Davis-Bacon and Related Acts Provisions and Procedures

29 CFR Part 5 Subpart A **(current as of 9/29/2025)**

**§ 5.5 Contract provisions and related matters.**

(a) ***Required contract clauses.*** The Agency head will cause or require the contracting officer to require the contracting officer to insert in full, or (for contracts covered by the Federal Acquisition Regulation (48 CFR chapter 1)) by reference, in any contract in excess of $2,000 which is entered into for the actual construction, alteration and/or repair, including painting and decorating, of a public building or public work, or building or work financed in whole or in part from Federal funds or in accordance with guarantees of a Federal agency or financed from funds obtained by pledge of any contract of a Federal agency to make a loan, grant or annual contribution (except where a different meaning is expressly indicated), and which is subject to the labor standards provisions of any of the laws referenced by § 5.1, the following clauses (or any modifications thereof to meet the particular needs of the agency, *Provided,* That such modifications are first approved by the Department of Labor):

(1) ***Minimum wages*** —

(i) ***Wage rates and fringe benefits.*** All laborers and mechanics employed or working upon the site of the work (or otherwise working in construction or development of the project under a development statute), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of basic hourly wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. As provided in paragraphs (d) and (e) of this section, the appropriate wage determinations are effective by operation of law even if they have not been attached to the contract. Contributions made or costs reasonably anticipated for bona fide fringe benefits under the Davis-Bacon Act (40 U.S.C. 3141(2)(B)) on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(v) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics must be paid the appropriate wage rate and fringe benefits on the wage determination for the classification(s) of work actually performed, without regard to skill, except as provided in paragraph (a)(4) of this section. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: *Provided,* That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classifications and wage rates conformed under paragraph

(a)(1)(iii) of this section) and the Davis-Bacon poster (WH-1321) must be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(ii) ***Frequently recurring classifications.***

(A) In addition to wage and fringe benefit rates that have been determined to be prevailing under the procedures set forth in 29 CFR part 1, a wage determination may contain, pursuant to § 1.3(f), wage and fringe benefit rates for classifications of laborers and mechanics for which conformance requests are regularly submitted pursuant to paragraph (a)(1)(iii) of this section, provided that:

(*1*) The work performed by the classification is not performed by a classification in the wage determination for which a prevailing wage rate has been determined;

(*2*) The classification is used in the area by the construction industry; and

(*3*) The wage rate for the classification bears a reasonable relationship to the prevailing wage rates contained in the wage determination.

(B) The Administrator will establish wage rates for such classifications in accordance with paragraph (a)(1)(iii)(A)(*3*) of this section. Work performed in such a classification must be paid at no less than the wage and fringe benefit rate listed on the wage determination for such classification.

(iii) ***Conformance.***

(A) The contracting officer must require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract be classified in conformance with the wage determination. Conformance of an additional classification and wage rate and fringe benefits is appropriate only when the following criteria have been met:

(*1*) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(*2*) The classification is used in the area by the construction industry; and

(*3*) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) The conformance process may not be used to split, subdivide, or otherwise avoid application of classifications listed in the wage determination.

(C) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken will be sent by the contracting officer by email to *DBAconformance@dol.gov*. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30

days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer will, by email to *DBAconformance@dol.gov*, refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(E) The contracting officer must promptly notify the contractor of the action taken by the Wage and Hour Division under paragraphs (a)(1)(iii)(C) and (D) of this section. The contractor must furnish a written copy of such determination to each affected worker or it must be posted as a part of the wage determination. The wage rate (including fringe benefits where appropriate) determined pursuant to paragraph (a)(1)(iii)(C) or (D) of this section must be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iv) ***Fringe benefits not expressed as an hourly rate.*** Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor may either pay the benefit as stated in the wage determination or may pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(v) ***Unfunded plans.*** If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, *Provided,* That the Secretary of Labor has found, upon the written request of the contractor, in accordance with the criteria set forth in § 5.28, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(vi) ***Interest.*** In the event of a failure to pay all or part of the wages required by the contract, the contractor will be required to pay interest on any underpayment of wages.

(2) ***Withholding*** —

(i) ***Withholding requirements.*** The [write in name of Federal agency or the recipient of Federal assistance] may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime contractor or any subcontractor for the full amount of wages and monetary relief, including interest, required by the clauses set forth in paragraph (a) of this section for violations of this contract, or to satisfy any such liabilities required by any other Federal contract, or federally assisted contract subject

to Davis-Bacon labor standards, that is held by the same prime contractor (as defined in § 5.2). The necessary funds may be withheld from the contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to Davis-Bacon labor standards requirements and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld. In the event of a contractor's failure to pay any laborer or mechanic, including any apprentice or helper working on the site of the work (or otherwise working in construction or development of the project under a development statute) all or part of the wages required by the contract, or upon the contractor's failure to submit the required records as discussed in paragraph (a)(3)(iv) of this section, the [Agency] may on its own initiative and after written notice to the contractor, sponsor, applicant, owner, or other entity, as the case may be, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(ii) ***Priority to withheld funds.*** The Department has priority to funds withheld or to be withheld in accordance with paragraph (a)(2)(i) or (b)(3)(i) of this section, or both, over claims to those funds by:

(A) A contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;

(B) A contracting agency for its reprocurement costs;

(C) A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate;

(D) A contractor's assignee(s);

(E) A contractor's successor(s); or

(F) A claim asserted under the Prompt Payment Act, 31 U.S.C. 3901-3907.

(3) ***Records and certified payrolls*** —

(i) ***Basic record requirements*** —

(A) ***Length of record retention.*** All regular payrolls and other basic records must be maintained by the contractor and any subcontractor during the course of the work and preserved for all laborers and mechanics working at the site of the work (or otherwise working in construction or development of the project under a development statute) for a period of at least 3 years after all the work on the prime contract is completed.

(B) ***Information required.*** Such records must contain the name; Social Security number; last known address, telephone number, and email address of each such worker; each worker's correct classification(s) of work actually performed; hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in 40 U.S.C. 3141(2)(B) of the Davis-Bacon Act); daily and weekly number of hours

actually worked in total and on each covered contract; deductions made; and actual wages paid.

(C) ***Additional records relating to fringe benefits.*** Whenever the Secretary of Labor has found under paragraph (a)(1)(v) of this section that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in 40 U.S.C. 3141(2)(B) of the Davis-Bacon Act, the contractor must maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits.

(D) ***Additional records relating to apprenticeship.*** Contractors with apprentices working under approved programs must maintain written evidence of the registration of apprenticeship programs, the registration of the apprentices, and the ratios and wage rates prescribed in the applicable programs.

(ii) ***Certified payroll requirements*** —

(A) ***Frequency and method of submission.*** The contractor or subcontractor must submit weekly, for each week in which any DBA- or Related Acts-covered work is performed, certified payrolls to the [write in name of appropriate Federal agency] if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the certified payrolls to the applicant, sponsor, owner, or other entity, as the case may be, that maintains such records, for transmission to the [write in name of agency]. The prime contractor is responsible for the submission of all certified payrolls by all subcontractors. A contracting agency or prime contractor may permit or require contractors to submit certified payrolls through an electronic system, as long as the electronic system requires a legally valid electronic signature; the system allows the contractor, the contracting agency, and the Department of Labor to access the certified payrolls upon request for at least 3 years after the work on the prime contract has been completed; and the contracting agency or prime contractor permits other methods of submission in situations where the contractor is unable or limited in its ability to use or access the electronic system.

(B) ***Information required.*** The certified payrolls submitted must set out accurately and completely all of the information required to be maintained under paragraph (a)(3)(i)(B) of this section, except that full Social Security numbers and last known addresses, telephone numbers, and email addresses must not be included on weekly transmittals. Instead, the certified payrolls need only include an individually identifying number for each worker (*e.g.,* the last four digits of the worker's Social Security number). The required weekly certified payroll information may be submitted using Optional Form WH-347 or in any other format desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division website at *https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/wh347/.pdf* or its successor website. It is not a violation of this section for a prime contractor to require a subcontractor to provide full Social Security numbers and last known addresses, telephone numbers, and email addresses to the prime contractor for its own records, without weekly submission by the

subcontractor to the sponsoring government agency (or the applicant, sponsor, owner, or other entity, as the case may be, that maintains such records).

(C) ***Statement of Compliance.*** Each certified payroll submitted must be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor, or the contractor's or subcontractor's agent who pays or supervises the payment of the persons working on the contract, and must certify the following:

(*1*) That the certified payroll for the payroll period contains the information required to be provided under paragraph (a)(3)(ii) of this section, the appropriate information and basic records are being maintained under paragraph (a)(3)(i) of this section, and such information and records are correct and complete;

(*2*) That each laborer or mechanic (including each helper and apprentice) working on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR part 3; and

(*3*) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification(s) of work actually performed, as specified in the applicable wage determination incorporated into the contract.

(D) ***Use of Optional Form WH-347.*** The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 will satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(C) of this section.

(E) ***Signature.*** The signature by the contractor, subcontractor, or the contractor's or subcontractor's agent must be an original handwritten signature or a legally valid electronic signature.

(F) ***Falsification.*** The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under 18 U.S.C. 1001 and 31 U.S.C. 3729.

(G) ***Length of certified payroll retention.*** The contractor or subcontractor must preserve all certified payrolls during the course of the work and for a period of 3 years after all the work on the prime contract is completed.

(iii) ***Contracts, subcontracts, and related documents.*** The contractor or subcontractor must maintain this contract or subcontract and related documents including, without limitation, bids, proposals, amendments, modifications, and extensions. The contractor or subcontractor must preserve these contracts, subcontracts, and related documents during the course of the work and for a period of 3 years after all the work on the prime contract is completed.

(iv) ***Required disclosures and access*** —

(A) ***Required record disclosures and access to workers.*** The contractor or subcontractor must make the records required under paragraphs (a)(3)(i) through (iii) of this section, and any other documents

that the [write the name of the agency] or the Department of Labor deems necessary to determine compliance with the labor standards provisions of any of the applicable statutes referenced by § 5.1, available for inspection, copying, or transcription by authorized representatives of the [write the name of the agency] or the Department of Labor, and must permit such representatives to interview workers during working hours on the job.

(B) ***Sanctions for non-compliance with records and worker access requirements.*** If the contractor or subcontractor fails to submit the required records or to make them available, or refuses to permit worker interviews during working hours on the job, the Federal agency may, after written notice to the contractor, sponsor, applicant, owner, or other entity, as the case may be, that maintains such records or that employs such workers, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available, or to permit worker interviews during working hours on the job, may be grounds for debarment action pursuant to § 5.12. In addition, any contractor or other person that fails to submit the required records or make those records available to WHD within the time WHD requests that the records be produced will be precluded from introducing as evidence in an administrative proceeding under 29 CFR part 6 any of the required records that were not provided or made available to WHD. WHD will take into consideration a reasonable request from the contractor or person for an extension of the time for submission of records. WHD will determine the reasonableness of the request and may consider, among other things, the location of the records and the volume of production.

(C) ***Required information disclosures.*** Contractors and subcontractors must maintain the full Social Security number and last known address, telephone number, and email address of each covered worker, and must provide them upon request to the [write in name of appropriate Federal agency] if the agency is a party to the contract, or to the Wage and Hour Division of the Department of Labor. If the Federal agency is not such a party to the contract, the contractor, subcontractor, or both, must, upon request, provide the full Social Security number and last known address, telephone number, and email address of each covered worker to the applicant, sponsor, owner, or other entity, as the case may be, that maintains such records, for transmission to the [write in name of agency], the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or other compliance action.

(4) ***Apprentices and equal employment opportunity*** —

(i) ***Apprentices*** —

(A) ***Rate of pay.*** Apprentices will be permitted to work at less than the predetermined rate for the work they perform when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship (OA), or with a State Apprenticeship Agency recognized by the OA. A person who is not individually registered in the program, but who has been certified by the OA or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as

an apprentice, will be permitted to work at less than the predetermined rate for the work they perform in the first 90 days of probationary employment as an apprentice in such a program. In the event the OA or a State Apprenticeship Agency recognized by the OA withdraws approval of an apprenticeship program, the contractor will no longer be permitted to use apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(B) ***Fringe benefits.*** Apprentices must be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringe benefits must be paid in accordance with that determination.

(C) ***Apprenticeship ratio.*** The allowable ratio of apprentices to journeyworkers on the job site in any craft classification must not be greater than the ratio permitted to the contractor as to the entire work force under the registered program or the ratio applicable to the locality of the project pursuant to paragraph (a)(4)(i)(D) of this section. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated in paragraph (a)(4)(i)(A) of this section, must be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under this section must be paid not less than the applicable wage rate on the wage determination for the work actually performed.

(D) ***Reciprocity of ratios and wage rates.*** Where a contractor is performing construction on a project in a locality other than the locality in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyworker's hourly rate) applicable within the locality in which the construction is being performed must be observed. If there is no applicable ratio or wage rate for the locality of the project, the ratio and wage rate specified in the contractor's registered program must be observed.

(ii) ***Equal employment opportunity.*** The use of apprentices and journeyworkers under this part must be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

(5) ***Compliance with Copeland Act requirements.*** The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

(6) ***Subcontracts.*** The contractor or subcontractor must insert in any subcontracts the clauses contained in paragraphs (a)(1) through (11) of this section, along with the applicable wage determination(s) and such other clauses or contract modifications as the [write in the name of the Federal agency] may by appropriate instructions require, and a clause requiring the subcontractors to include these clauses and wage determination(s) in any lower tier subcontracts. The prime contractor is responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this section. In the event of any violations of these clauses, the prime contractor and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief,

including interest from the date of the underpayment or loss, due to any workers of lower-tier subcontractors, and may be subject to debarment, as appropriate.

(7) ***Contract termination: debarment.*** A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) ***Compliance with Davis-Bacon and Related Act requirements.*** All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

(9) ***Disputes concerning labor standards.*** Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

(10) ***Certification of eligibility.***

(i) By entering into this contract, the contractor certifies that neither it nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of 40 U.S.C. 3144(b) or § 5.12(a).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of 40 U.S.C. 3144(b) or § 5.12(a).

(iii) The penalty for making false statements is prescribed in the U.S. Code, Title 18 Crimes and Criminal Procedure, 18 U.S.C. 1001.

(11) ***Anti-retaliation.*** It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:

(i) Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the DBA, Related Acts, this part, or 29 CFR part 1 or 3;

(ii) Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under the DBA, Related Acts, this part, or 29 CFR part 1 or 3;

(iii) Cooperating in any investigation or other compliance action, or testifying in any proceeding under the DBA, Related Acts, this part, or 29 CFR part 1 or 3; or

(iv) Informing any other person about their rights under the DBA, Related Acts, this part, or 29 CFR part 1 or 3.

## Attachment 2 – Contract Work Hours and Safety Standards Act

(b) ***Contract Work Hours and Safety Standards Act (CWHSSA).*** The Agency Head must cause or require the contracting officer to insert the following clauses set forth in paragraphs (b)(1) through (5) of this section in full, or (for contracts covered by the Federal Acquisition Regulation) by reference, in any contract in an amount in excess of $100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses must be inserted in addition to the clauses required by paragraph (a) of this section or 29 CFR 4.6. As used in this paragraph (b), the terms "laborers and mechanics" include watchpersons and guards.

(1) ***Overtime requirements.*** No contractor or subcontractor contracting for any part of the conract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) ***Violation; liability for unpaid wages; liquidated damages.*** In the event of any violation of the clause set forth in paragraph (b)(1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages and interest from the date of the underpayment. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchpersons and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of $33 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1).

(3) ***Withholding for unpaid wages and liquidated damages*** —

(i) ***Withholding process.*** The [write in the name of the Federal agency or the recipient of Federal assistance] may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime contractor or any subcontractor for any unpaid wages; monetary relief, including interest; and liquidated damages required by the clauses set forth in this paragraph (b) on this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract subject to the Contract Work Hours and Safety Standards Act that is held by the same prime contractor (as defined in § 5.2). The necessary funds may be withheld from the contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to the Contract Work Hours and Safety Standards Act and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld.

(ii) ***Priority to withheld funds.*** The Department has priority to funds withheld or to be withheld in accordance with paragraph (a)(2)(i) or (b)(3)(i) of this section, or both, over claims to those funds by:

(A) A contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;

(B) A contracting agency for its reprocurement costs;

(C) A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate;

(D) A contractor's assignee(s);

(E) A contractor's successor(s); or

(F) A claim asserted under the Prompt Payment Act, 31 U.S.C. 3901-3907.

(4) ***Subcontracts.*** The contractor or subcontractor must insert in any subcontracts the clauses set forth in paragraphs (b)(1) through (5) of this section and a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor is responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (b)(1) through (5). In the event of any violations of these clauses, the prime contractor and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss, due to any workers of lower-tier subcontractors, and associated liquidated damages and may be subject to debarment, as appropriate.

(5) ***Anti-retaliation.*** It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:

(i) Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the Contract Work Hours and Safety Standards Act (CWHSSA) or its implementing regulations in this part;

(ii) Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under CWHSSA or this part;

(iii) Cooperating in any investigation or other compliance action, or testifying in any proceeding under CWHSSA or this part; or

(iv) Informing any other person about their rights under CWHSSA or this part.

(c) ***CWHSSA required records clause.*** In addition to the clauses contained in paragraph (b) of this section, in any contract subject only to the Contract Work Hours and Safety Standards Act and not to

any of the other laws referenced by § 5.1, the Agency Head must cause or require the contracting officer to insert a clause requiring that the contractor or subcontractor must maintain regular payrolls and other basic records during the course of the work and must preserve them for a period of 3 years after all the work on the prime contract is completed for all laborers and mechanics, including guards and watchpersons, working on the contract. Such records must contain the name; last known address, telephone number, and email address; and social security number of each such worker; each worker's correct classification(s) of work actually performed; hourly rates of wages paid; daily and weekly number of hours actually worked; deductions made; and actual wages paid. Further, the Agency Head must cause or require the contracting officer to insert in any such contract a clause providing that the records to be maintained under this paragraph must be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the (write the name of agency) and the Department of Labor, and the contractor or subcontractor will permit such representatives to interview workers during working hours on the job.

(d) ***Incorporation of contract clauses and wage determinations by reference.*** Although agencies are required to insert the contract clauses set forth in this section, along with appropriate wage determinations, in full into covered contracts, and contractors and subcontractors are required to insert them in any lower-tier subcontracts, the incorporation by reference of the required contract clauses and appropriate wage determinations will be given the same force and effect as if they were inserted in full text.

(e) ***Incorporation by operation of law.*** The contract clauses set forth in this section (or their equivalent under the Federal Acquisition Regulation), along with the correct wage determinations, will be considered to be a part of every prime contract required by the applicable statutes referenced by § 5.1 to include such clauses, and will be effective by operation of law, whether or not they are included or incorporated by reference into such contract, unless the Administrator grants a variance, tolerance, or exemption from the application of this paragraph. Where the clauses and applicable wage determinations are effective by operation of law under this paragraph, the prime contractor must be compensated for any resulting increase in wages in accordance with applicable law.

## Attachment 3 – State Historic Preservation Agreement



RECEIVED
NOV 1 0 2010
TN. HISTORICAL COMMISSION

**PROGRAMMATIC AGREEMENT**
**AMONG**
**THE UNITED STATES DEPARTMENT OF ENERGY, THE TENNESSEE STATE HISTORIC PRESERVATION OFFICE, THE TENNESSEE DEPARTMENT OF HUMAN SERVICES, AND THE TENNESSEE DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT REGARDING THE ENERGY EFFICIENCY AND CONSERVATION BLOCK GRANT PROGRAM, THE STATE ENERGY PLAN AND THE WEATHERIZATION ASSISTANCE PROGRAM UNDERTAKINGS**
**PURSUANT TO 36 CFR PART 800**
**October 28, 2010**

**WHEREAS**, the United States Department of Energy (DOE) administers the following financial assistance programs: ***the Energy Efficiency and Conservation Block Grant Program*** under the Energy Independence and Securities Act of 2007 (EECBG); ***the State Energy Plan*** under the Energy Policy and Conservation Act of 1975 and the State Energy Efficiency Programs Improvement Act of 1990 (SEP); and ***the Weatherization Assistance Program*** (WAP) for Low-Income Persons under Title IV of the Energy Conservation and Production Act, the Energy Policy Act of 2005, the Energy Independence and Security Act of 2007, and the American Recovery and Reinvestment Act of 2009 (ARRA); collectively referred to as the "Programs"; and,

**WHEREAS**, the unprecedented levels of funding available to the Programs, due in large measure to ARRA, has created a large volume of projects requiring expedited historic preservation reviews to ensure the timely obligation of funds, that create new jobs, and improve local and state economies; and,

**WHEREAS**, the Tennessee State Historic Preservation Office (SHPO) is experiencing unprecedented numbers of requests for historic preservation review of undertakings funded by all Federal Agencies, including undertakings funded by the Programs; and,

**WHEREAS**, the Tennessee Department of Human Services and Tennessee Department of Economic and Community Development (Recipients) are receiving financial assistance from DOE to carry out the Programs; and,

**WHEREAS,** the Tennessee Department of Human Services and Tennessee Department of Economic and Community Development are passing a portion of this financial assistance along to various sub-recipients (Sub-Recipients); and,

**WHEREAS**, the projects funded by the Programs are undertakings subject to review under Section 106 of the National Historic Preservation Act, 16 U.S.C 470f (NHPA) and its implementing regulations at 36 CFR part 800 and include rehabilitation, energy efficiency retrofits, renewables, and weatherization (undertakings); and,

**WHEREAS,** DOE has determined that these undertakings may adversely affect properties that

are listed in or eligible for listing in the National Register of Historic Places (National Register) and subject to the requirements of the National Historic Preservation Act (NHPA); and,

**WHEREAS**, in accordance with 36 CFR 800.14(b)(4), the Advisory Council on Historic Preservation (the ACHP) has designated this Agreement as a Prototype Programmatic Agreement (PA), which does not require the participation or signature of the ACHP;

**WHEREAS**, DOE, the ACHP, and the National Conference of State Historic Preservation Officers (NCSHPO) have determined that the requirements of Section 106 can be more effectively and efficiently fulfilled if a programmatic approach is used to stipulate roles and responsibilities, exempt undertakings from Section 106 review, establish tribal protocols, facilitate identification and evaluation of historic properties, establish treatment and mitigation measures, and streamline the resolution of adverse effects; and,

**WHEREAS**, by memorandum dated August 28, 2009 (attached as Appendix C), DOE delegated certain tasks necessary for compliance with Section 106 of the NHPA to Recipients and Sub-Recipients of funding from the Programs; and,

**WHEREAS**, according to the August 28, 2009 memorandum, the Recipients are authorized, to initiate Section 106 compliance in accordance with 36 CFR 800.2 (c)(4); and,

**WHEREAS**, the undertakings covered under this PA are not located on Tribal lands and are primarily smaller scale activities and routine projects, rather than complex undertakings with a greater potential to adversely affect historic properties, which would require completion of the Section 106 review process as codified at 36 CFR 800.3 through 800.7; and,

**WHEREAS**, DOE and the ACHP were guided by the principles set forth in the ACHP's Affordable Housing Policy statement, adopted on November 9, 2006, in negotiating the Prototype Programmatic Agreement upon which this PA is based.

**NOW, THEREFORE,** the U.S. Department of Energy, the Tennessee Department of Human Services, the Tennessee Department of Economic and Community Development and the Tennessee State Historic Preservation Office agree that the Programs shall be administered in accordance with the following stipulations to satisfy the U.S. Department of Energy's Section 106 responsibilities for all individual undertakings of the Programs in Tennessee:

## STIPULATIONS

DOE, the Recipients, and the SHPO shall ensure that the following stipulations are carried out:

### I. Roles and Responsibilities

A. DOE shall be responsible for providing oversight of the PA, executing PAs with SHPOs, participating in the resolution of disputes between the SHPO and the

Recipients, and providing technical assistance and guidance as needed. DOE shall be responsible for government-to-government consultation with Indian tribes. If any activity has the potential to effect any cultural resources with tribal religious and cultural significance, the recipient must notify DOE immediately in order for DOE to initiate tribal consultation before the project proceeds further.

B. The Recipients shall be responsible for consulting with consulting parties and conducting Section 106 reviews in a timely manner, preparing documentation for the SHPO and DOE, and maintaining records on all Program undertakings. The Recipients shall submit all undertakings that involve properties fifty (50) years old and older that are not listed as exemptions on either Appendices A or B to the SHPO for review in accordance with this PA.

C. Recipients shall ensure that the provisions of this PA apply to their Sub-Recipients by inclusion of requirements for adherence to Section 106 procedures and the stipulations contained in this PA in their contracts or amendments to such contracts with Sub-Recipients. The Tennessee SHPO, through the Department of Human Services and the Department of Economic and Community Development, shall provide training to their WAP, SEP, and EECBG sub-recipients regarding Section 106 requirements.

D. In carrying out their Section 106 requirements, the Recipients will utilize qualified professionals certified by the SHPO.

E. The SHPO shall be responsible for promptly reviewing and commenting upon project documentation and participating in consultation as set forth in this PA.

F. The ACHP shall be responsible for providing technical guidance, participating in dispute resolutions if it so requests, and monitoring the effectiveness of this PA.

## II. Tribal Review

A. Execution of this PA presumes that DOE will continue to carry out its government-to government responsibilities with federally recognized Indian tribes consistent with applicable Federal laws and regulations. The Recipients shall not substitute for DOE in matters related to findings of potential effects on historic properties of cultural and religious significance to Indian tribes.

B. DOE acknowledges that Indian tribes possess special expertise in assessing the National Register eligibility of properties with tribal religious and cultural significance to them. DOE shall , consult with them, as appropriate, in identifying historic properties listed in or eligible for listing in the Area of Potential Effect (APE) of program areas.

C. If either of the Recipients notifies DOE that an undertaking under this PA may result in an adverse effect on historic properties with tribal religious and cultural significance, DOE shall notify Indian tribes of individual undertakings that may result in an adverse effect on cultural resources with tribal religious and cultural significance and invite them to participate in consultations. Indian tribes and the Recipients may develop a bi-party agreement that outlines their review procedures

for undertakings covered in this PA. Such agreements will be submitted to DOE and the SHPO for review and approval, and a copy sent to the ACHP for its records.

## III. Exemptions from Section 106 review

A. The Recipients shall not submit to the SHPO undertakings listed in Appendices A or B of this PA as they do not have the potential to cause effects on historic properties even when historic properties may be present. The Recipients and the SHPO may agree to modify Appendix A and/or Appendix B, with advance notification of such modifications to the ACHP and DOE. Recipients will maintain file records with verification that they determined the undertakings to be exemptions under this PA for a period of three (3) years from project completion and make these file records available for review if requested by DOE, the SHPO or the ACHP.

B. Recipients of any of the Programs may utilize either Appendix A or Appendix B in identifying exempt undertakings.

## IV. Review Procedures for Non-exempt Undertakings

A. The Recipients shall review the undertaking in accordance with Stipulations V through IX below, or shall review the undertakings consistent with other SHPO approved historic preservation protocols that may be attached to this PA by amendment.

## V. Identification and Evaluation

A. The Recipients shall establish the Area of Potential Effect (APE) for all program undertakings as defined in the DOE grant agreement for the State. B. The Recipients and SHPO shall complete the identification and evaluation of historic properties not excluded from further review by this PA utilizing existing information: including the National Register of Historic Places, review by SHPO of its historic property site files, state surveys, and county and local surveys. In addition, the Recipients and the SHPO may use or develop protocols that are consistent with 36 CFR 800.4 for the review of consensus determinations of eligibility in the form of cultural resources survey reports. Subject to this PA, the Tennessee Department of Human Services will use Appendix D and the Tennessee Department of Economic and Community Development will use Appendix E as the protocols developed for the process of the identification and evaluation of all properties located within Programs APEs, consistent with 36 CFR 800.4, for determination of their eligibility for listing on the National Register of Historic Places.

C. Recipients shall commission the preparation of Archaeological Survey Reports only in cases where there are anticipated significant new ground disturbing Program undertakings. In those cases, Recipients shall inform DOE and DOE will consult with Indian tribes that may attach religious or cultural significance to historic properties within the undertaking's area of potential effects. To determine the scope of such Surveys and to avoid potential delays, the SHPO will review and comment upon the Recipient's scopes of work for both above ground surveys and archaeological surveys that satisfy the requirements of this PA before Recipients commission them.

D. Recipients shall forward undertakings requiring more than minimal ground disturbance to the SHPO and DOE for review and comment, which will inform the Recipients' proposed Scopes of Work. DOE will share the results of any such Surveys with affected Tribes.

E. The Recipients shall refer disputes regarding determinations of eligibility to DOE for review and referral to the Keeper of the National Register in accordance with 36 CFR 800.4(c)(2).

## VI. Treatment of Historic Properties

A. When the Recipients and the SHPO have concurred that the subject of a Program undertaking is eligible for listing in the National Register of Historic Places, or the Keeper of the National Register has made a Formal Determination to that effect, and the Recipients and the SHPO have formally concurred that the particular undertaking has been designed and planned in accordance with the Secretary of the Interior's *Standards for the Treatment of Historic Properties* (36 CFR Part 68, July 12, 1995 *Federal Register*) (Standards), the SHPO will so state in a formal letter to the Recipient within three (3) business days of receipt, and that Program undertaking will not be subject to further Section106 review.

B. The Recipients and SHPO will make their best efforts to expedite reviews through a formal SHPO finding of "No Adverse Effect with conditions" within three (3) business days of receipt of adequate documentation when the Recipient and the SHPO have concurred that plans and specifications or scopes of work can be modified to ensure adherence to the Standards. If the undertaking cannot meet the Standards or would otherwise result in an adverse effect to historic properties, the Recipients will proceed in accordance with Stipulation VII.

## VII. Resolution of Adverse Effects

A. The Recipients shall consult with the SHPO, to resolve adverse effects. The Recipients will notify DOE to consult with Indian tribes as appropriate. The Recipients will notify DOE of the pending consultation with the SHPO, and DOE will participate through its designated representative.

B. The Recipients may use standard stipulations included in Attachment A of this

PA, or as negotiated as part of this PA between the SHPO and the Recipients, or if the project warrants, mitigations carried in an alternate PA due to the complexity of the undertaking.

C. All Signatories to this PA shall make every effort to ensure that this consultation shall conclude within 45-days or less to avoid the loss of funding. In the event the consultation extends beyond this period, DOE shall formally invite the ACHP to participate in consultation. The ACHP will consult with DOE regarding the issues and the opportunity to negotiate a Memorandum of Agreement (MOA) specific to the undertaking under consultation. Within seven (7) days after notification, the ACHP will enter consultation and provide its recommendation for either concluding the Section 106 review through an MOA or Chairman's comment from the ACHP to the Secretary of DOE within 21 days.

D. In the case of an ACHP Chairman comment, DOE may proceed once DOE provides its response to the ACHP.

## VIII. Emergency Situation Undertakings

A. When a Recipient has designated a particular undertaking as an emergency undertaking and it is associated with an historic property, the Recipient shall submit appropriate documentation to the SHPO by email and afford the SHPO one (1) business day to respond by e-mail. For the purposes of this PA, emergencies exist when there is a need to eliminate an imminent threat to the health and safety of the residents of the historic property as stated formally by the local or County building inspectors, fire department officials, or other local or County building officials.

1) The Recipient shall forward documentation listed in Appendix D and E to the SHPO for review immediately upon notification that an emergency exists. This documentation should include a) the nature of the emergency; b) the address of the historic property involved; c) photographs showing the current condition of the building; and d) the time-frame allowed by local officials to respond to, or correct, the emergency situation.

2) The Recipient shall consider mitigation measures recommended by the SHPO and implement them. If the Recipient finds that the SHPO recommendations are infeasible, the Recipient shall consult with the SHPO to resolve the issue and take SHPO recommendations into account when determining its appropriate action.

## IX. Public and Consulting Party Involvement

A. The Recipients shall maintain a list of Program undertakings and shall make this documentation available to the public. The Recipient shall notify the SHPO if it is notified of other consulting party or public interest in any undertakings covered under the terms of the PA.

B. The Recipients, independently or at the recommendation of the SHPO, may

invite interested persons to participate as consulting parties in the consultation process for adverse effects in accordance with Stipulations VI, VII, and VIII.

## X. Administrative Coordination

A. The Recipients, in consultation with the SHPO, may determine that a Program undertaking has already been reviewed under a previous Section 106 effect determination or an agreement document that is still in effect. In such cases no further Section 106 review under this PA is required.
B. Upon receipt of adequate documentation, The SHPO shall provide comments to the Recipients within three (3) business days, unless otherwise agreed upon by the SHPO and the Recipient, for reviews required under the terms of this PA with the exception of emergency undertakings. In the event that the SHPO fails to comment within the established period, the Recipient may assume the SHPO has concurred, and proceed.
C. The Recipient shall advise Sub-Recipients, in writing, that they may have their grant funding for a specific project disallowed for violation of the provisions in Section 110(k) of the Act which states that a Sub-Recipient who, with intent to avoid the requirements of Section 106 of the National Historic Preservation Act, has, previous to the grant award, intentionally significantly adversely affected a historic property to which the grant would relate, or having legal power to prevent it, has allowed such significant adverse effect to occur.
D. The SHPO and the Recipients shall make every effort to expedite Section 106 reviews. To this end, the SHPO will respond to Recipient requests to review and comment upon Architectural and Archaeological Survey Reports accompanied with adequate documentation in fewer than the three (3) day when such response times are consistent with the terms of the DOE grant agreements and the Recipient has utilized the services of qualified professionals to prepare the Reports; and in one (1) business day by e-mail in emergency circumstances where the Recipient has submitted appropriate documentation.
E. For projects that will require either an Environmental Assessment or an Environmental Impact Statement under the National Environmental Policy Act (NEPA), nothing contained in this PA shall prevent or limit the Recipient and DOE from utilizing the procedures set forth in 36 CFR 800.8 to coordinate and conduct the historic preservation review in conjunction with the NEPA review.

## XI. Discoveries

If Recipients, Sub-Recipients, or their contractors and consultants discover historic properties within a Program undertaking's Area of Potential Effects (APE) after the undertaking has been initiated, the Recipient will ensure the implementation of the following procedures:

A. The Recipient or affected Sub-Recipient shall immediately cease all operations for the portion of the undertaking with the potential to affect an historic property;
B. The Sub-Grantee shall advise the Recipient that it has discovered the National Register eligibility of the historic property and the potential of the undertaking to impact its qualifying characteristics. In addition, the Sub-Recipient shall provide the Recipient an explanation of the nature of the adverse effect. Upon receipt of this notification the Recipient shall notify the DOE and consult with the SHPO either to resolve the affected property's National Register eligibility or to prepare either avoidance, minimization treatment plan, or a mitigation plan.
C. The Recipient shall notify DOE who will then notify Indian tribes of any discoveries and any Program undertakings that have the potential to adversely affect sites or buildings of religious or cultural significance to them. After reviewing such discoveries, the Indian tribes can request further consultation on the project by notifying
DOE, ACHP, and the SHPO in writing.
D. In consultation with the SHPO, the Recipient or Sub-Recipient shall develop and implement an avoidance, treatment or mitigation plan and advise the Recipient, the SHPO, and DOE, if appropriate, of the satisfactory completion of the approved work. Once the approved work is complete, the Sub-Recipient may resume the activities that were halted to address the discovery situation.

## XII. Dispute Resolution

A. Should the SHPO, either by letter or electronic mail, object within the time frames outlined in this PA to any Program undertakings, the Recipient shall consult further with the SHPO to attempt to resolve the SHPO's objection. If the SHPO does not withdraw its objection, then the Recipient shall refer the matter to DOE. The Recipient shall forward all documentation relevant to DOE, who will notify and consult with the ACHP to resolve the objection.
B. The ACHP will provide its recommendations, if any, within twenty-one (21) days following receipt of relevant documentation. DOE will take into account the ACHP's recommendations or formal comments in reaching a final decision regarding the dispute.

## XIII. Reporting and Monitoring

A. DOE, the ACHP, and the SHPO may monitor any undertakings carried out pursuant to this PA. The ACHP may review undertakings, if requested by DOE. DOE shall be entitled to address and make determinations on overall policy or administrative issues related to the implementation of these Programs.

B. The Recipients shall adhere to DOE's established protocols for ARRA reporting program undertakings.

C. Beginning on October 15, 2010, DOE will submit annual reports to the ACHP and the NCSHPO summarizing the Programs' undertakings, to include data on the total number of undertakings, the number of exempt undertakings, and the number of reviews conducted under this PA.

## XIV. Amendments

DOE, the SHPO, or the Recipient may request that this PA be amended, whereupon DOE, the Recipients, the SHPO, and the ACHP, if it has requested, will consult to consider such an amendment. Any such amendment shall be drafted and executed among DOE, the Recipient, and the SHPO in the same manner as this PA, and pertain only to this State's PA.

## XV. Duration of Agreement

This PA will be valid for three (3) years from the date of execution, as verified with DOE filing the PA with the ACHP.

## XVI. Termination of Agreement

DOE, the SHPO, or the Recipient may terminate the PA, provided that the party proposing termination notifies the other signatories and the ACHP in writing explaining the reasons for termination and affording the other signatories at least thirty (30) days to consult and seek alternatives to termination. If, after thirty days, consultation has not resolved the reasons for termination, this PA shall be terminated. If this PA is terminated, DOE will complete the requirements of 36 CFR 800.3 through 800.7 relative to the Programs.

## XVII.

The execution of this PA among the U. S. Department of Energy, the Tennessee State Historic Preservation Officer, the Tennessee Department of Human Services, and the Tennessee Department of Economic and Community Development, and the implementation of its terms evidences that the U. S. Department of Energy has taken into account the effects of these undertakings on historic properties.

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**SIGNATORIES**

**United States Department of Energy**
Office of Energy Efficiency and Renewable Energy
Office of Weatherization and Intergovernmental Programs

11/5/10
Name, Date

**Tennessee State Historic Preservation Officer**

E. Patrick McIlhaney 11/15/10
Name, Date

**Tennessee Department of Economic and Community Development**

Matthew Kisber 11/1/10
Name, Date

**Tennessee Department of Human Services**

Virginia Lodge 10-28-10
Name, Date

## APPENDIX A—WAP UNDERTAKINGS EXEMPT FROM SECTION 106 REVIEW

All undertakings will be done in accordance with applicable local building codes or the International Building Code, where applicable. In accordance with 36 CFR 800.3(a)(1), the following undertakings have been determined to have no potential to cause effects on historic properties:

### A. Exterior Work

1) Air sealing of the building shell, including caulking, weather-stripping, and other air infiltration control measures on windows and doors, and installing thresholds in a manner that does not harm or obscure historic windows or trim. These measures in residential homes should be conducted in accordance with the Southeast Weatherization Field Guide or successor standard building guides for the Southeast.
2) Thermal insulation, such as non-toxic fiberglass and foil wrapped, in walls, floors, ceilings, attics, and foundations in a manner that does not harm or damage historic fabric.
3) Blown in wall insulation where no holes are drilled through exterior siding, or where holes have no permanent visible alteration to the structure.
4) Removable film on windows (if the film is transparent), in a manner that does not harm or obscure historic windows or trim.
5) Roofing in a manner that closely resembles the historic materials and form, or with materials that restore the original feature based on historic evidence, and in a manner that does not alter the roofline, or where not on a primary roof elevation or visible from the public right-of-way.
6) Full View Storm windows or doors, and wood screen doors in a manner that does not harm or obscure historic windows or trim
7) In-kind replacement or repair of primary windows, doors and door frames that duplicate as closely as possible in appearance and materials the existing substrate and framing.
8) Repair of minor roof and wall leaks prior to insulating attics or walls, provided repairs duplicate as closely as possible in appearance and materials existing surface composite.
9) Energy audits
10) Painting over previously painted exterior surfaces, provided destructive surface preparation treatments are not used (such as water-blasting, sandblasting and chemical removal)
11) Repair or replacement of existing exterior siding provided that new siding duplicates as closely as possible in appearance and materials the existing siding in dimension, profile and texture
12) Installing foundation vents, if painted or finished to match the existing foundation material.

13) Installing sun tubes or skylights not on a primary roof elevation or visible from the public right-of-way.

**B. Interior Work**

***Special Note:*** Undertakings to interior spaces where the work will not be visible from the public right of way; no structural alterations are made; no demolition of walls, ceilings or floors occurs; no drop ceilings are added; or no walls are leveled with furring or moved, and incidental repairs to any walls, ceiling or floors that are associated with energy efficiency work, heating and cooling system work, energy efficiency work affecting the electric base load of the property, or health and safety measures, shall be automatically excluded from **SHPO** review. This work includes:

***1. Energy efficiency work within the building shell:***

a. Thermal insulation in walls, floors, ceilings, attics, crawl spaces, ducts and foundations
b. Blown in wall insulation where no decorative plaster is damaged.
c. Plumbing work, including installation of water heaters, and water conservation measures such as low flow faucets, shower heads, etc.
d. Electrical work, including improving lamp efficiency
e. Sealing air leaks using weather stripping, door sweeps, and caulk and sealing major air leaks associated with bypasses, ducts, air conditioning units, etc.
f. Repair or replace water heaters
g. Adding adjustable speed drives such as fans on air handling units, cooling tower fans, and pumps
h. Install insulation on water heater tanks and water heating pipes
i. Install solar water heating systems, provided the structure is not visible from the public right of way
j. Install waste heat recovery devices, including desuperheater water heaters, condensing heat exchangers, heat pump and water heating heat recovery systems, and other energy recovery equipment
k. Repair or replace electric motors and motor controls like variable speed drives
l. Incorporate other lighting technologies such as dimmable ballasts, day lighting controls, and occupant controlled dimming

***2. Work on heating and cooling systems:***

a. Clean, tune, repair or replace heating systems, including furnaces, boilers, heat pumps, vented space heaters, and wood stoves
b. Clean, tune repair or replace cooling systems, including central air conditioners, window air conditioners, heat pumps, and evaporative coolers
c. Install insulation on ducts and heating pipes
d. Conduct other efficiency improvements on heating and cooling systems, including replacing standing pilot lights with electronic ignition devices and installing vent

dampers
e. Modify duct and pipe systems so heating and cooling systems operate efficiently and effectively, including adding return ducts, replace diffusers and registers, replace air filters, install thermostatic radiator controls on steam and hot water heating systems
f. Install programmable thermostats, outdoor reset controls, UL listed energy management systems or building automation systems and other HVAC control systems

***3. Energy efficiency work affecting the electric base load of the property:***

a. Convert incandescent lighting to fluorescent
b. Add reflectors, LED exit signs, efficient HID fixtures, and occupancy (motion) sensors
c. Replace refrigerators and other appliances

***4. Health and safety measures:***

a. Installing fire, smoke or carbon monoxide detectors / alarms
b. Repair or replace vent systems on fossil-fuel-fired heating systems and water heaters to ensure that combustion gases draft safely to outside
c. Install mechanical ventilation, in a manner not visible from the public right of way, to ensure adequate indoor air quality if house is air-sealed to building tightness limit

## APPENDIX B – SEP AND EECBG UNDERTAKINGS EXEMPT FROM SECTION 106 REVIEW

### A. Category 1 - No Consultation Required

In addition to the undertakings provided in ***Exhibit A (WAP Undertakings exempt from Section 106 Review)***, DOE and the SHPO have concluded that the following undertakings do not have the potential to cause effects on historic properties per 36 CFR § 800.3(a)(1):

***1. General efficiency measures not affecting the exterior of the building:***

a. Energy audits and feasibility studies
b. Weatherization of mobile homes and trailers
c. Caulking and weather-stripping around doors and windows in a manner that does not harm or obscure historic windows or trim.
d. Water conservation measures – like low flow faucets, toilets, shower heads, urinals – and distribution device controls
e. Repairing or replacing in kind existing driveways, parking areas, and walkways with materials of similar appearance
f. Excavating to gain access to existing underground utilities to repair or replace them, provided that the work is performed consistent with previous conditions
g. Ventilating crawl spaces
h. Replacement of existing HVAC equipment including pumps, motors, boilers, chillers, cooling towers, air handling units, package units, condensers, compressors, heat exchangers that do not require a change to existing ducting, plumbing, electrical, controls or a new location, or if ducting, plumbing, electrical and controls are on the rear of the structure or not visible from any public right of way.
i. Adding or replacing existing building controls systems including HVAC control systems and the replacement of building-wide pneumatic controls with digital controls, thermostats, dampers, and other individual sensors like smoke detectors and carbon monoxide detectors (wired or non-wired)
j. New installation of non-hard wired devices including photo-controls, occupancy sensors, carbon dioxide, thermostats, humidity, light meters and other building control sensors, provided the work conforms with applicable state and local permitting requirements
k. Adding variable speed drive motors
l. Insulation of water heater tanks and pipes
m. Furnace or hot water tank replacement that does not require a visible new supply or venting

***2. Insulation measures not affecting the exterior of the building:***

a. Thermal insulation installation in walls, floors and ceilings (excluding spray foam insulation)
b. Duct sealing, insulation, repair or replacement in unoccupied areas
c. Attic insulation with proper ventilation; if under an effective R8 - add additional R-19 up to R-38 (fiberglass bat only)
d. Band joist insulation - R-11 to R19 as applicable
e. Water heater tank and pipe insulation

***3. Electric base load measures not affecting the exterior of the building:***

a. Appliance replacement (upgrade to EnergyStar appliances)
b. Compact fluorescent light bulbs
c. Energy efficient light fixtures, including ballasts (Replacement)
d. LED light fixtures and exit signs (Replacement)
e. Upgrade exterior lighting (replacement with metal halide bulbs, LEDs, or others) along with ballasts, sensors and energy storage devices not visible from any public right of way

***4. Electric Street Lamp and Traffic Signal Replacement:***

a. Replacement of traffic signals and street lamp bulbs with LED or other energy-efficient bulbs and interior components.

**B. Category 2 - No Consultation Required if grant recipients follow the Secretary of the Interior's Standards for Rehabilitation contained in ATTACHMENT B of this PA**

***1. Efficiency and repair measures:***

a. Painting over previously painted exterior surfaces, provided destructive surface preparation treatments are not used (such as water-blasting, sandblasting and chemical removal)
b. Installation or replacement of downspout extensions, provided that the color of the extensions is historically appropriate for the period and style of the property
c. Repairing or upgrading electrical or plumbing systems and installing mechanical equipment, in a manner that does not permanently change the appearance of the interior or exterior of the building
d. Installation of new HVAC equipment (such as pumps, motors, boilers, chillers, cooling towers, air handling units, package units, condensers, compressors, or heat exchangers) in a manner that does not permanently change the appearance of the building.
e. Integrated shingle-style or thin film solar systems on the rear roof of the structure,

behind the parapet or not visible from the public right of way.
f. Solar systems (including photovoltaic and solar thermal) not visible from the public right of way and if ground-mounted can be installed without ground disturbance and if roof-mounted will not require new building reinforcement.
g. Wind system additions to existing wind power facilities that will not require ground disturbance and if building mounted will not require building reinforcement.
h. Lead-based paint abatement in accordance with the Standards and Preservation Brief #37
i. Building cleaning in accordance with the Standards and Preservation Briefs #1, #6, and #10
j. Repairing masonry, including re-pointing and rebuilding chimneys in accordance with the Standards and Preservation Brief # 2
k. New lighting controls including photo-sensors and shading elements if not visible from the public right of way
l. New metering devices in a manner that does not permanently change the appearance of the interior or exterior of the building, or if the addition is on the exterior of the structure and is not visible from the public right of way
m. New water efficient fixtures and fittings in a manner that does not permanently change the appearance of the interior or exterior of the building

***2. Installation or repair of roofing, siding, and ventilation:***

a. White Roofs, Cool Roofs, Green Roofs, Sod or Grass Roofs not visible from the public right-of-way
b. Rainwater catches and/or gray water systems not viewable from the public right of way
c. Repair or replacement of existing exterior siding provided that new siding closely resembles the existing siding in dimension, profile and texture
d. Flat or shallow pitch roof replacement (shallow pitch is defined as a pitch with a rise-to-run ratio equal to or less than 3" to 12") with no part of the surface of the roof visible from the ground
e. Roof repair or replacement with materials that duplicate as closely as possible in appearance and materials the historic materials and form, or with replacement materials that are close to the original in color, texture, composition and form to restore the original feature based on historic evidence, and in a manner that does not alter the roofline
f. Installing vents (such as continuous ridge vents covered with ridge shingles or boards, roof vents, bath and kitchen vents, soffit and frieze board vents or combustion appliance flues) if not located on a primary roof elevation or not visible from the public right-of-way
g. Installing foundation vents, if painted or finished to match the existing foundation material.

***3. Windows and doors:***

a. Installing full storm windows, storm doors or wood screen doors in a manner that does not harm or obscure historic windows, doors or trim.
b. Installing insulated exterior replacement doors where the door openings are not altered and are not visible from the public right-of-way
c. Window or glazing treatments that do not change the appearance of the interior or exterior of the building, or if the addition is on the exterior of the structure

## APPENDIX C – AUGUST 28, 2009 DELEGATION MEMORANDUM

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## Appendix D

### Historic Properties Identification and Review Procedures Weatherization Assistance Program- Referral Process for Non-Exempt Properties to SHPO for Review

A. The Recipient shall prepare, or have prepared, the documentation in Section B for submittal to SHPO for review and comment upon the eligibility of a building or structure fifty (50) years or older for inclusion in the National Register of Historic Places; provided the dwelling or the work to be performed on the exterior or interior of the dwelling has not already been determined to be exempt from Section 106 review as established in Appendices A or B of this Agreement.

B. The Recipient, or the Sub-Recipient shall provide via E-Mail to the SHPO the following item for buildings not exempt from review: a letter requesting Section 106 review of the National Register eligibility of the building or structure that should include:

(a) The street address, city, and county of the building or structure;

(b) Digital 4x6 inch photographs of the exterior and interior of the building or structure; and

(c) The building or structure's date of construction.

C. The SHPO will review the information submitted, and, within three (3) business days, provide a written response (via E-Mail) to the requesting party regarding the building's National Register eligibility, with a copy to the Weatherization Program Director. In the case of an emergency request, the SHPO will provide a response within one (1) business day, per section VIII of this PA.

D. If the SHPO and Recipient determine that the building is not eligible for inclusion in the National Register of Historic Places, no further action regarding coordination with SHPO is required for the Section 106 review of that undertaking and weatherization assistance program services will proceed.

E. 1. If the SHPO determines that the property is eligible for inclusion on the National Register of Historic Places, and the Recipient agrees with this determination, the Recipient shall provide to the SHPO a project narrative/work write-up in sufficient detail regarding the work to be performed on the property that is subject to SHPO review, including materials to be used, to enable a reader unfamiliar with the undertaking or its location to gain a full understanding of the undertaking and all of its elements and their potential to affect directly and indirectly the subject historic property. 2. The SHPO shall review and comment upon this project narrative/work write up within three (3) business days from the date of receipt with a

finding either that the project will not adversely affect the historic property or that the project will adversely affect the historic property. If the former, the weatherization work will begin. If the latter, the Recipient and the SHPO will then consult to resolve the adverse effect in accord with stipulations contained in this PA.

3. If the Recipient disagrees with the SHPO respecting the National Register eligibility of the building, the Recipient will submit the documentation required by stipulations contained in this PA to DOE for a Formal Determination of Eligibility by the Keeper of the National Register. If the Keeper determines the building not to be National Register eligible, there will be no further review under Section 106 or the provisions of this PA. If the Keeper determines the building to be National Register eligible, the Recipient will proceed in accordance with sub-sections 1 and 2 of this section.
4. All instructions, notices, consents, demands, or other communications required or contemplated by Appendix D shall be in writing, and shall be made by certified, first class mail, return receipt requested and postage prepaid, by overnight courier service with an asset tracking system, or by EMAIL or facsimile transmission with Recipient confirmation.

## Appendix E

### Historic Properties Identification and Review Procedures for the Energy Efficiency and Conservation Block Grant (EECBG) Program and the State Energy (SEP) Program- Referral Process for Non-Exempt Properties to SHPO for Review

A. The Recipient shall prepare, or have prepared, the documentation in Section B for submittal to SHPO for review and comment upon the eligibility of a building or structure fifty (50) years or older for inclusion in the National Register of Historic Places; provided the work to be performed on the exterior or interior of the building has not already been determined to be exempt from Section 106 review as established in Appendices A or B of this PA.

B. The Recipient, or sub-recipients, shall provide the SHPO the following item in writing for buildings not exempt from review: a letter requesting Section 106 review of the National Register eligibility of the property that should include:

(a) The street address, city, and county of the building or structure;

(b) Digital 4x6 inch photographs of the exterior and interior of the building or structure; and

(c) The building or structure's date of construction.

C. The SHPO will review the information submitted, and within three (3) business days provide a written response to the requesting party regarding the property's eligibility, with a copy to the Director of the Office of Energy Policy in the Department of Economic and Community Development for Section 106 review. In the case of an emergency request, SHPO will provide a response within one (1) business day, per section VIII of this agreement.

D. If the SHPO and Recipient determine that the property is not eligible for inclusion in the National Register of Historic Places, no further action regarding coordination with SHPO is required for the Section 106 review of that undertaking and Energy Efficiency and Conservation Block Grant (EECBG) program or State Energy Program (SEP) measures and services will proceed.

E. 1. If the SHPO determines that the property is eligible for inclusion on the National Register of Historic Places, and the Recipient agrees with this determination, the Recipient shall provide to the SHPO a project narrative/work write-up in sufficient detail regarding the work to be performed on the property that is subject to SHPO review, including materials to be used, to enable a reader unfamiliar with the undertaking or its location to gain a full understanding of the undertaking and all of

its elements and their potential to affect directly and indirectly the subject historic property.

2. The SHPO shall review and comment upon this project narrative/work write up within three (3) business days from the date of receipt with a finding either that the project will not adversely affect the historic property or that the project will adversely affect the historic property. If the former, the Energy Efficiency and Conservation Block Grant (EECBG) program or State Energy Program (SEP) services work will begin. If the latter, the Recipient and the SHPO will then consult to resolve the adverse effect in accord with stipulations contained in this PA.
3. If the Recipient disagrees with the SHPO respecting the National Register eligibility of the building, the Recipient will submit the documentation required by stipulations contained in this PA to DOE for a Formal Determination of Eligibility by the Keeper of the National Register. If the Keeper determines the building not to be National Register eligible, there will be no further review under Section 106 or the provisions of this PA. If the Keeper determines the building to be National Register eligible, the Recipient will proceed in accordance with sub-sections 1 and 2 of this section.
4. All instructions, notices, consents, demands, or other communications required or contemplated by Appendix D shall be in writing, and shall be made by certified, first class mail, return receipt requested and postage prepaid, by overnight courier service with an asset tracking system, or by EMAIL or facsimile transmission with Recipient confirmation.

## ATTACHMENT A:
## STANDARD MITIGATION MEASURES FOR ADVERSE EFFECTS

The Recipient and the SHPO may develop and execute an Agreement that includes one or more of the following Standard Mitigation Measures, as may be modified to a particular activity, with the concurrence of both parties, for undertakings found to have an adverse effect on listed or eligible historic properties. The ACHP will not be a party to these Agreements.

1. Recordation

The Recipient shall ensure that the historic property is recorded before its alteration in accordance with methods or standards established in consultation with the SHPO. The SHPO shall identify appropriate archive locations for the deposit of recordation materials and the Recipient shall be responsible for submitting required documentation to identified archive locations. The Recipient and the SHPO may mutually agree to waive the recordation requirement in situations where the integrity of the building has been compromised or other representative samples of a similar historic resources has been previously recorded.

2. Architectural Salvage

The Recipient, in consultation with the SHPO, shall identify significant architectural features for salvage, and appropriate parties to receive the salvaged features. The Recipient shall ensure that any architectural features identified for salvage are salvaged prior to initiation of undertakings and properly stored and curated. When feasible, and determined appropriate in consultation with SHPO, salvaged architectural features shall be reused in other preservation projects.

3. Rehabilitation

If the SHPO has found that a proposed rehabilitation of an historic property does not meet the *Standard* or SHPO approved design guidelines, the Recipient shall ensure that the rehabilitation of this historic property is carried out in accordance with treatments agreed upon by the Recipient and the SHPO and that these agreed to treatments are incorporated in the project's final plans and specifications. The SHPO will approve the project's final plans and specifications before the Recipient initiates the undertaking.

4. New Construction

If the SHPO has found that a proposed new addition to an historic property or new construction that adversely affects an historic property does not meet the *Standard* or SHPO approved design guidelines, the Recipient shall ensure that the new construction is carried out in accordance with treatments agreed upon by the Recipient and the SHPO and

that these agreed to treatments are incorporated in the project's final plans and specifications. The SHPO will approve the project's final plans and specifications before the Recipient initiates the undertaking.

5. Archaeology

In cases where the undertaking will cause unavoidable adverse effects to National Register eligible archaeological properties, the Recipient shall notify the DOE who will consult with affected tribes, and, in the event that the archaeological property contains no human remains, grave goods, or funerary objects, the Recipient shall consult with the SHPO to determine whether archaeological data recovery or some other treatment measure is appropriate and in the public interest. If all consulting parties agree that archaeological data recovery is the appropriate treatment measure, the Recipient shall consult further with the SHPO to develop and implement a data recovery plan for those portions of the historic property that will be adversely affected. The data recovery plan shall:

- be based on firm background data, sound planning, and accepted archaeological methods;
- be consistent with applicable State laws and regulations;
- be accomplished in a thorough, efficient manner, using the most cost effective techniques practicable;
- provide for appropriate curation of archeological materials and records, and
- provide for reporting and interpretation of what has been learned in a format understandable and accessible to the public;
- be consistent with the National Park Service's *Archeology and Historic Preservation: Secretary of the Interior's Standards and Guidelines* (at: http://www.nps.gov/history/local-law/arch_stnds_7.htm), and shall take into account the ACHP's publications, *Recommended Approach for Consultation on Recovery of Significant Information from Archeological Sites* (1999), ACHP Section 106 *Archaeology Guidance* (at: http://www.achp.gov/archguide/), and any archaeological guidance issued by the SHPO.

## ATTACHMENT B:
## SECRETARY OF THE INTERIOR'S STANDARDS FOR REHABILITATION

### Standards for Rehabilitation

REHABILITATION is defined as the act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features which convey its historical, cultural, or architectural values.



1. A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.
2. The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.
3. Each property will be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, will not be undertaken.
4. Changes to a property that have acquired historic significance in their own right will be retained and preserved.
5. Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.
6. Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and, where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.
7. Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.
8. Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.
9. New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work will be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.
10. New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

**Rehabilitation as a Treatment**

**When repair and replacement of deteriorated features are necessary; when alterations or additions to the property are planned for a new or continued use; and when its depiction at a particular period of time is not appropriate, Rehabilitation may be considered as a treatment.**