

# **Required Language in all Sub-Contracts**

## **COMPLIANCE WITH FEDERAL REQUIREMENTS**

**General.** This NSP2 project is subject to the requirements of 24 CFR § 570, as amended, concerning Community Development Block Grants (“CDBG”) and is subject to applicable provisions of the American Recovery and Reinvestment Act of 2009 (“ARRA”). More specifically, this project is subject to the Federal statutes, regulations and Executive Orders identified in the NSP2 Grant Award Agreement between Owner and the Department of Housing and Urban Development. Contractor and Sub-Contractor and Sub-Contractor and Sub-Contractor shall abide by all applicable Federal, state and local laws, regulations, codes and ordinances in the performance of all activities required by this Agreement. Contractor and Sub-Contractor and Sub-Contractor and Sub-Contractor shall include all applicable requirements in its subcontracts for this project.

**Conflict of Interest.** No person who is an employee, agent, consultant, officer, or elected or appointed official of the Owner or other pertinent party may obtain a personal or financial interest or benefit from, or have an interest in, this Agreement or the proceeds hereunder, either for themselves or for those with whom they have family or business ties, during their tenure or for one year thereafter, if they exercise or have exercised any functions or responsibilities with respect to the CDBG Entitlement Program or the Neighborhood Stabilization Program 2.

Pursuant to 24 CFR § 570.611, no persons who exercise or have exercised such functions or responsibilities or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from a CDBG-assisted activity, or have a financial interest in any contract, subcontract, or agreement with respect to a CDBG-assisted activity, or with respect to the proceeds of the CDBG-assisted activity, either for themselves or those with whom that have business or immediate family ties, during their tenure or for one year thereafter. **Contractor and Sub-Contractor** and Sub-Contractor and Sub-Contractor covenants that no person having such financial interest shall be employed or retained by the **Contractor and Sub-Contractor** and Sub Contractor and Sub-Contractor in the performance of this Agreement.

**Displacement.** **Contractor and Sub-Contractor and Sub-Contractor and Sub-Contractor** shall ensure that no person will be displaced from his or her dwelling as a direct result of activities assisted with NSP2 funds provided under this Agreement.

**Lobbying.** **Contractor and Sub-Contractor and Sub-Contractor and Sub-Contractor** shall not pay any part of funds received under this Agreement for lobbying the Executive or Legislative Branches of the Federal, State, or local government.

**Lobbying Certification:** The **Contractor and Sub-Contractor and Sub-Contractor**

**and Sub-Contractor** hereby certifies that no Federal appropriated funds have been paid, or will be paid, by or on behalf of the **Contractor and Sub-Contractor** to any person for influencing or attempting to influence an officer or employee of any agency of the United States government, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency of the United States government, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federally-funded Agreement, the Contractor and Sub-Contractor and Sub-Contractor and Sub-Contractor will complete and submit Standard Form- LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

**Contractor and Sub-Contractor and Sub-Contractor and Sub-Contractor's** Lobbying Certification has been provided to the Owner by a separate signed document, is a material representation of fact upon which reliance is placed in the execution of this Agreement and is a prerequisite imposed by Federal law for making or entering into this Agreement.

**Drug-Free Workplace Certification:** **Contractor and Sub-Contractor and Sub-Contractor and Sub-Contractor** hereby certifies that **Contractor and Sub-Contractor and Sub-Contractor and Sub-Contractor** will comply with drug-free workplace requirements in accordance with the Drug-Free Workplace Act of 1988 and HUD's implementing regulations at 2 CFR § 2429.

#### **Required Records:**

Progress Reports. As part of the monitoring requirements for ARRA funded projects, the Owner is responsible for submitting periodic financial reports and project performance reports to the Department of Housing and Urban Development. To help facilitate submission of the required construction progress reports, **Contractor and Sub-Contractor and Sub-Contractor and Sub-Contractor** shall submit to the Owner all on-site technical inspections and certified percentage-of-completion data within four (4) calendar days following the end of each calendar quarter. This information and copies of all required permits also must be submitted with each Application for Payment to show that all required Work for the current construction phase was completed in compliance with Little Rock Housing Code Standards, NSP2 Construction Standards, and Energy Star criteria, as applicable.

Accounts. The **Contractor and Sub-Contractor** shall maintain a separate and distinct set of accounts, records, documents, and other evidence showing and supporting: all allowable costs incurred; collections accruing to the

Contractor and Sub-Contractor and Sub-Contractor and Sub-Contractor in connection with the Work under this Agreement; other applicable credits, negotiated fixed amounts, and fee accruals under this Agreement; and the receipt, use, and disposition of all Government property coming into the possession of the Contractor and Sub-Contractor and Sub-Contractor and Sub-Contractor under this Agreement. The system of accounts employed by the Contractor and Sub-Contractor and Sub-Contractor and Sub-Contractor shall be satisfactory to the Owner and in accordance with generally accepted accounting principles consistently applied.

Jobs Created. Pursuant to Title XV, Section 1512 of the ARRA, the Contractor and Sub-Contractor and Sub-Contractor and Sub-Contractor shall provide reports and other employment information as evidence to document the number of jobs created or jobs retained by this Agreement from the workforce of the Contractor and Sub-Contractor and Sub-Contractor and Sub-Contractor and from the workforce of all subContractor and Sub-Contractors hired by the Contractor and Sub-Contractor and Sub-Contractor and Sub-Contractor. Contractor and Sub-Contractor and Sub-Contractor and Sub-Contractor shall include this mandatory reporting requirement in all of its subcontracts for this project. Contractor and Sub-Contractor and Sub-Contractor and Sub-Contractor shall provide a description of each job created or retained and the number of hours worked by employees in jobs that were created or retained by the Contractor and Sub-Contractor and its subContractor and Sub-Contractors on this project. This information must be furnished to the Owner by the fourth (4<sup>th</sup>) calendar day of each month.

Minimum Wage Records. If applicable to this project, Required Records also include minimum required wage rates by classification and weekly payroll records pursuant to the labor standards identified in Section 9.11 below. Payroll records must include the name, address, and social security number of each worker, his or her correct classification, hourly rates of wages paid, including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents, daily and weekly number of hours worked, deductions made and actual wages paid. These records and a corresponding Statement of Compliance shall be submitted to Owner on a weekly basis.

Compliance Records. In addition, Contractor and Sub-Contractor and Sub-Contractor and Sub-Contractor shall maintain records that document compliance, or that are required for compliance, with the requirements stated in this Agreement, such as, but not limited to, the Contractor and Sub-Contractor and Sub-Contractor and Sub-Contractor's Drug-Free Workplace policy.

No Additional Payment. No direct payment will be made for providing these reports, as the cost shall be included in the lump sum Contract Price.

**Inspections.** The Owner and the Federal Government shall have the right to inspect the Work and activities of the Contractor and Sub-Contractor and Sub-Contractor and

**Sub-Contractor** under this Agreement as such time and in such manner as they shall deem appropriate. **Contractor and Sub-Contractor and Sub-Contractor and Sub-Contractor** shall permit access to its financial records, books of accounts, and other Required Records for inspection by the Owner, the Department of Housing and Urban Development or its agent, the Government Accountability Office, the Office of the Inspector General, the Comptroller General of the United States, or any other authorized representative of the Federal Government.

Comptroller General. Pursuant to Section 902 of the ARRA, the Comptroller General of the United States and his representatives are authorized to: (1) examine any records of the **Contractor and Sub-Contractor or any of its subContractor and Sub-Contractors** that directly pertain to, and involve transactions relating to, the Agreement or subcontract, and (2) interview any officer or employee of the **Contractor and Sub-Contractor or any of its subContractor and Sub-Contractors** regarding such transactions.

Inspector General. Section 1515(a) of the ARRA authorizes any representative of the Inspector General of a relevant Federal agency to: (1) examine any records of the Contractor and Sub-Contractor and Sub-Contractor and Sub-Contractor and any of its subContractor and Sub-Contractors that pertain to, and involve transactions relating to, the Agreement or subcontract; and (2) interview any officer or employee of the Contractor and Sub-Contractor and Sub-Contractor and Sub-Contractor, grantee, subgrantee, or agency regarding such transactions.

**Record Retention.** Contractor and Sub-Contractor and Sub-Contractor and Sub-Contractor shall retain all Required Records for a period of seven (7) years after termination of all activities under this Agreement or until all litigation, claims or audit findings that were initiated during the seven-year retention period have been resolved and final action taken, whichever is later.

**SubContractor and Sub-Contractor Records, Inspection and Retention.** **Contractor and Sub-Contractor and Sub-Contractor and Sub-Contractor** shall include provisions substantially the same as Sections 9.7 through 9.9 in all subcontracts or purchase orders of any tier entered into hereunder where, under the terms of the subcontract, costs incurred are a factor in determining the amount payable to the subContractor and Sub-Contractor.

**Labor Standards.** For contracts in excess of \$2,000.00 or in excess of \$2,500.00 for mechanics or laborers, **Contractor and Sub-Contractor and Sub-Contractor and Sub-Contractor** shall comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act, as amended, with the Contract Work Hours and Safety Standards Act, and with the Copeland Anti-Kickback Act, all as provided in *Exhibit D*, attached hereto and incorporated herein by this reference. Pursuant to 42 U.S.C. Section 5310, these provisions shall apply to the rehabilitation of residential property only if such property contains not less than

eight housing units.

**Lead-Based Paint.** Pursuant to the Lead-Based Paint Poisoning Prevention Act (codified at 42 U.S.C. §§ 4821-4846) and implementing regulations (24 CFR Part 35), **Contractor and Sub-Contractor** shall not use lead-based paint in the performance of Work under this Agreement and shall specify by brand name and type all paints and paint preparation materials to be used.

If the Work specifications include activities that may disturb lead paint surfaces, **Contractor and Sub-Contractor or the subContractor and Sub-Contractor** performing that activity must be certified in lead safe work practices.

**Equal Employment Opportunity.** For contracts in excess of \$10,000.00, **Contractor and Sub-Contractor** shall comply with applicable provisions of Executive Order 11246 of September 24, 1964, as amended, and shall not discriminate in employment decisions on the basis of race, color, religion, sex or national origin in the performance of this Agreement.

**Non-Discrimination.** **Contractor and Sub-Contractor** shall comply with applicable provisions of the Fair Housing Act (codified at 42 U.S.C. §§ 3601-3619) and implementing regulations at 24 CFR Part 100 and shall comply with applicable provisions of Executive Order 11063, as amended by Executive Order 12259 (Equal Opportunity in Housing Programs), and shall not discriminate against persons on the basis of race, color, creed, religion, ancestry, national origin, sex, age, marital or familial status or other disability in the performance of this Agreement. In the performance of this Agreement, **Contractor and Sub-Contractor** shall comply with Title VI of the Civil Rights Act of 1964, as amended, Section 3 of the Housing and Urban Development Act of 1968 and implementing regulations, Section 109 of Title I of the Housing and Community Development Act of 1974, Section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, along with all applicable regulations associated therewith, all as may be amended. In its **subContractor and Sub-Contractor** agreements for this project, **Contractor and Sub-Contractor** shall comply with Executive Order 11625, as amended, Executive Order 12432 as amended by Executive Order 12608 (Minority Business Enterprises and Women's Business Enterprises) by encouraging the participation of small, minority and women-owned businesses where possible.

**Section 3 Clause.** The Work to be performed under this Agreement is a project assisted under a program providing direct Federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended (codified at 12 U.S.C. § 1701). Section 3 requires that, to the greatest extent feasible, opportunities for training and employment be given to low-income and very low-income residents of the project area, and that contracts for work in connection with the project be awarded to business concerns that provide economic opportunities for low-income and very low-income persons residing in the metropolitan area in which the project is located.

The parties to this Agreement certify that they are under no contractual obligation or other impediment that would prevent compliance with Section 3 or the implementation regulations found in 24 CFR Part 135 as applicable to this Agreement.

The **Contractor and Sub-Contractor** agrees to send to each labor organization or representative or workers with which it has a collective bargaining agreement or other contract or understanding, if any, a notice advising said labor organization or worker's representative of its commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training. The notice shall describe the Section 3 preference, shall set forth the minimum number subject to hire and the job titles, availability of apprenticeship and training positions, the qualifications for each, the anticipated date that work will begin, and the name and location of the person(s) taking applications for each of the positions.

The **Contractor and Sub-Contractor** agrees to include this Section 3 clause in every subContract that is subject to compliance with 24 CFR Part 135 and agrees to take appropriate action, as provided in applicable provisions of the subcontract or in Section 3, upon finding that a subContractor and Sub-Contractor is in violation of these requirements. The **Contractor and Sub-Contractor** shall not subcontract with any subContractor and Sub-Contractor if the **Contractor and Sub-Contractor** has notice or knowledge that the subContractor and Sub-Contractor has been found to be in violation of 24 CFR Part 135.

**Accessibility Standards.** In the construction or alteration of residential structures under this Agreement, **Contractor and Sub-Contractor** shall comply with applicable provisions of the Architectural Barriers Act of 1968 (codified at 42 U.S.C. §§ 4151-4157) and shall comply with applicable provisions of the Uniform Federal Accessibility Standards (appendix A to 24 CFR Part 40).

**Limitation on Use of Federal Funds.** **Contractor and Sub-Contractor** agrees that funds received under this Agreement will not be utilized for religious activities, to promote religious interests, for the benefit of a religious organization, or for sectarian purposes.

**Whistle Blower Protection.** **Contractor and Sub-Contractor** recognizes that Section 1553 of the American Recovery and Reinvestment Act provides certain protections for employees who disclose information reasonably believed to be evidence of gross mismanagement, gross waste, substantial and specific danger to public health or safety, abuse of authority, or violations of law related to contracts or grants using Recovery Act funds. In compliance with the Recovery Act, **Contractor and Sub-Contractor** shall post the required notice of Whistle Blower rights and remedies at its place of business and shall require its subContractor and Sub-Contractors to post the required notice also. A copy of the required poster will be provided to Contractor and Sub-Contractor by the Owner.

**Federal Debarment and Suspension.** Contractor and Sub-Contractors and

subContractor and Sub-Contractors who are excluded or disqualified from participation in Federal programs by any Federal department or agency are not eligible to execute this contract or related subcontracts during any period of debarment, suspension or placement in ineligibility status under the provisions of 24 CFR Part 5.

**Debarment Certification.** Contractor and Sub-Contractor hereby certifies that its principals and subContractor and Sub-Contractors:

- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation from covered transactions by any federal department or agency according to the Excluded Parties List System ([www.epls.gov](http://www.epls.gov));
- (b) Have not within a three (3) year period preceding this Agreement been convicted of or had a civil judgment rendered against it or them for commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statement(s) or receiving stolen property;
- (c) Are not presently indicted for or otherwise criminally charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated above, and;
- (d) Have not within a three (3) year period preceding this Agreement had one (1) or more public transactions (federal, state or local) terminated for cause or default.

**DUNS Number and CCR.** Contractor and Sub-Contractor shall obtain and maintain a Dun and Bradstreet Data Numbering System number (“DUNS”) (<http://fedgov.dnb.com/webform>) and shall register with the Central Contractor and Sub-Contractor Registration (“CCR”) (<http://www.ccr.gov/>). Contractor and Sub-Contractor may use its company name and zip code plus four for reporting purposes until a DUNS number is issued. Contractor and Sub-Contractor shall require all first-tier subContractor and Sub-Contractors to obtain a DUNS number and to register with the CCR.

**Safeguarding Property.** The Contractor and Sub-Contractor shall take all precautions to safeguard property of the Owner that is entrusted to Contractor and Sub-Contractor’s custody or control. When adjacent property is affected or endangered by any Work performed under this Agreement or related subcontract, Contractor and Sub-Contractor shall take all necessary steps for the protection of the adjacent property and shall notify the owner thereof of such hazard. The Contractor and Sub-Contractor shall confine operations at the project site to areas authorized by law and shall not encumber the site unreasonably with materials or equipment. The Contractor and Sub-Contractor shall keep the project area free from accumulation of waste materials and rubbish.

**Guaranty and Warranty Requirement.** Contractor and Sub-Contractor hereby guarantees the improvements and materials provided herein for a period of one (1)

year from the date of Owner's final acceptance of all Work specified in the NSP2 General Specifications. Promptly upon completion of the Work and before final payment, Contractor and Sub-Contractor shall furnish the Owner's NSP2 Coordinator with all written guarantees and warranties provided by manufacturers and suppliers for materials and equipment furnished under this Agreement.

**False Claims Act.** Contractor and Sub-Contractor shall refer promptly to the Department of Housing and Urban Development, Washington D.C. any credible evidence that a principal, employee, agent, Contractor and Sub-Contractor, subgrantee, subContractor and Sub-Contractor or other person has committed a false claim under the False Claims Act (codified at 31 U.S.C. §§ 3729-3733) or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving ARRA funds.

**Reporting of Fraud, Waste, and Abuse.** Contractor and Sub-Contractor shall also refer promptly to the Department of Housing and Urban Development, Washington, D.C. any credible evidence that a principal, employee, agent, Contractor and Sub-Contractor, subgrantee, subContractor and Sub-Contractor, or other person has committed a criminal or civil violation of laws pertaining to fraud, waste and abuse involving ARRA Funds.

**Employee Safety.** Contractor and Sub-Contractor shall ensure that where employees are engaged in activities not covered under the Occupational Safety and Health Act of 1970, said employees shall not be required or permitted to work, be trained in, or receive services in any buildings or surroundings, or under working conditions, which are unsanitary, hazardous, or dangerous to the participants' health or safety.