

NCRPC WEATHERIZATION ASSISTANCE PROGRAM



CONTRACTOR CONDITIONS

~updated June 2019~

NORTH CENTRAL REGIONAL PLANNING COMMISSION
BELOIT, KANSAS
1-800-432-0303

GENERAL CONDITIONS

These general conditions shall form part of the Contract and the provisions hereto shall be as binding upon the parties as if they were herein fully set forth.

1. DEFINITIONS

The following terms as used in this Contract are respectively defined as follows:

- a) The Contractor: A person, firm or corporation with whom the contract is made by the Grantee.
- b) The North Central Regional Planning Commission (NCRPC):
the agency acting as Grant Administrator and Inspector for the State of Kansas.

2. NCRPC AS AGENT

In all transactions between the Contractor and the NCRPC, the NCRPC will be considered the agent for the State of Kansas; and the liabilities and powers of the NCRPC will be those of agent only. NCRPC will, upon application, 1) give such interpretations of the Work Write-ups and Specifications as in their judgment, the nature of the work requires; 2) decide on the suitability and quality of materials and workmanship, 3) issue certificates for payments that the Contractor may be entitled to; and 4) adjust all deductions from or additions to the Contract price which may grow out of changes required after the work is under contract. The NCRPC will order the necessary changes and define the true intent and meaning of the Work Write-ups and Specifications.

3. INSPECTORS

Inspectors provided by NCRPC will make periodic visits to the work site for the purpose of general inspection in order to instruct the Contractor and pass on merits of materials and workmanship. Contractor shall perform all work in a professional manner that is satisfactory and acceptable to the Inspector. The Inspector shall be the sole judge of the Contractor's quality of performance. Contractor shall be responsible for a period of one (1) year for all items installed. Examples of such items include, but are not limited to, furnace repair or replacement, energy air sealing, insulation installation and venting. If the Inspector determines, after inspection, that materials or workmanship are incomplete, unsatisfactory or unacceptable, Contractor shall return to the work site and make the necessary corrections at no additional cost to the NCRPC.

4. ACCESS

Contractor will at all times furnish to the NCRPC Inspector, and representatives of the State of Kansas, safe and suitable means of access to any and all parts of the work for the purpose of inspection.

5. DISPUTES

In case any difference of opinion should arise between the Contractor and The NCRPC in relation to this Contract, the work to be performed under it, or in relation to the interpretation of the Work Write-up and Specifications, the decision of the NCRPC will be final and conclusive on all parties hereunder. If upon negotiation, the contractor still feels he is aggrieved, an appeal may be undertaken by following the complaint procedure contained in this writing.

6. PAYMENT

Payment for work performed by the Contractor under these contract Documents will be made at the approved contract price. Such payment shall compensate the contractor for all costs, of material, labor, taxes and overhead.

- A. Payment to the contractor will be made on either the 15th or last of each month, whichever date follows that date set forth in the contract for payment, provided all work contained in the contract have been certified as completed by NCRPC Inspectors.
- B. All inspection paperwork must be in the office within two business days of payday to be considered for payment.
- C. No certificates given or payments made under the Contract shall be considered as evidence of acceptance of any workmanship or materials that are not in strict accordance with the Work Write-ups or Specifications.
- D. Contractor should be aware that this project is being funded with the assistance of the Kansas Housing Resources Corporation weatherization grant funds and delays may occur in the receipt of funds from the State, which are beyond the control of the NCRPC.

7. WARRANTY

The Contractor shall warranty the work and materials for one (1) year from the date of final acceptance by the NCRPC, and shall leave the work in perfect condition; and neither the final certificate nor any provisions in the Contract Documents shall relieve Contractor of responsibility for negligence or faulty and/or improper materials or workmanship within the extent and period provided, and upon written notice, he shall remedy any defects due the work and pay all expenses for any damage to other work resulting there from.

8. SUPERVISION

The Contractor will give the work his personal supervision, or keep a competent foreman sufficiently continuous on the work site who is familiar with the Work Write-up and Specifications, and the additional considerations (if any) in the Contract. This foreman shall be entirely satisfactory to the NCRPC, and all directions given to the foreman shall be as effective as if given to the Contractor direct. The Inspector shall have full power to discharge any or all workmen, including the foreman, if in his judgment such workmen are incompetent or otherwise

unfit to execute the work; and the Inspector will have the power to stop the work at any time it is not being properly carried out.

9. STANDARD PRODUCTS

Where two or more units of equipment or materials are required at the same work site, they shall be the products of a single reputable manufacturer, satisfactory to the NCRPC.

10. CHANGES

If, on account of the present existing conditions, the Contractor is unable to furnish the kind of materials or execute the type of work in the Work Write-up and Specifications, he or she shall have the right to ask for and expect suitable substitutions as approved by the NCRPC, in which event, an adjustment will be made in the contract price, based on the actual, not comparative costs and/or values of the work originally specified and the substituted work; but no such changes shall be made until the Contractor has first made a reasonable and bona fide effort to obtain the materials or execute the work as originally specified in the Work Write-up and Specifications.

Should any changes in the Work Write-up and/or Specifications be desired by the NCRPC, whereby the cost may be diminished or increased, Contractor shall effect such changes at the direction of the NCRPC, and in accordance with the written order from the NCRPC. As a result, there will be added to, or deducted from, as the case may be, the original Contract; price; such sums as are determined by the NCRPC for the same by standard prices on such work. All such changes, with the additions or deductions in price therefore, shall be determined and agreed upon between the NCRPC and the Contractor before the changes are made. A written change order will be issued to the contractor by the NCRPC. In making settlements, the NCRPC and the Contractor will follow written only, not verbal, agreements.

Should it become necessary to retain any faulty work which, if remodeled or removed would cause undue risk, injury or delay, a sum to be adjusted by the NCRPC, but not exceeding the whole value of the work and materials should the same be correct, shall be deducted from the Contract price, if in the NCRPCS' opinion such action is necessary and justifiable.

Any addition to or deduction from this work will not impair the legality or status of the Contract, nor relieve the surety or sureties of their responsibility.

11. HEALTH AND SAFETY

The Contractor shall comply with all applicable codes, laws, ordinances, rules, regulations and lawful orders of any public authority having jurisdiction for the safety of persons or property or to protect them from damage, injury or loss, including the use of Lead Safe Work Practices. The

contractor shall erect and maintain, as required by existing conditions and progress of the work, all reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying owners and users of adjacent utilities.

12. CONSIDERATION OF RESIDENTS

All work is to be conducted in such a manner as to minimize disruption to the residents. Offensive or obscene language is prohibited on the job site. In addition, **cigarette smoking inside the home is prohibited.**

All work hereunder shall be done by appointment only. Appointments may be made by telephone, mail or visiting the residence up until the day **before** work is to begin. In the event Contractor is unable to contact a resident, Contractor shall inform the NCRPC and they will assist in making contact.

13. CLEANING UP

As the work progresses and at the end of EACH workday, the Contractor shall remove from the site all surplus materials and rubbish involved in his work so as not to interfere with the progress of his work or with the residents' activities.

Upon completion of the work and before it is accepted by the NCRPC, the Contractor will clean away all rubbish and debris at the work site that was caused by his work; and will clean all walls, ceilings, floors and glass in doors and windows of any dirt and discoloration caused by his work or workmen.

14. CONTRACTORS WORK AND MATERIALS

Small details not specified or shown, but necessary for the proper installation and furnishings in the various departments of work, shall be included and furnished as through both mentioned and shown.

Each Contractor shall afford other contractors, if any, reasonable opportunity for the introduction and storage of their materials and the execution of their work, and shall properly connect his work with theirs.

Each Contractor shall do all cutting, fitting or patching of his work that may be required to make the several parts come together properly, and fit it to receive or be received by the work of different trades.

No Contractor shall endanger structures on the work sites or adjacent properties by cutting, digging or otherwise; and should he cause damage to such structures, then such Contractor will settle for resulting damages in a satisfactory manner, and at no cost or damage to the Owner.

15. LOCAL LABOR AND MATERIALS

In employing labor and/or purchasing materials, the NCRPC requests the Contractor give preference to workers, mechanics and business firms in the locality; providing only that the quality of such local labors and materials meets the requirements of the Work Write-up and Specifications, and that the cost of such local labor and materials is not greater than that the Contractor may obtain elsewhere.

16. INDEMNIFICATION

Contractor shall indemnify the NCRPC from all suits, actions and proceedings of every name and description in law or in equity brought against the NCRPC for or on account of injuries or damage received or sustained by any person(s), structure or property, by or from Contractor or Contractor's agents, and also indemnify and hold harmless the NCRPC from all suits or actions for injuries or damage sustained by any parts or parties by or from any causes under the control of Contractor while engaged in the contract work on any unit under this Contract or by and account of any act or omission by Contractor or Contractor's agent.

17. LIENS AND PAYMENT BOND

Contractor shall pay all debts, dues and demands incurred in the performance of his/her work to ensure that no liens are brought against owners or residents of units for Contractor's non-payment.

Contractor shall offer as surety one of the following: 1) LABOR AND MATERIALS PAYMENT BOND for the full amount of the Contract price, to be in effect for 125 days past the final completion day of the last contract awarded to the contractor. 2) an executed CERTIFICATE OF DEPOSIT in the amount of the contract, to be held by the Grantee for 125 days past the final completion day of the last contract awarded to the contractor, 3) A BANK LETTER OF CREDIT for the full amount of the contract price, to be in effect for 125 days past the final completion day of the last contract awarded to the contractor, 4) A RELEASE OF LIENS may be secured for all corporations and persons who have furnished materials or labor during the course of the contract completion.

18. BREACH OF CONTRACT

Time is of the essence, and in the event Contractor fails to perform hereunder in a timely manner, and this failure is not the fault of the NCRPC, the Contractor will be in breach of Contract. Should the NCRPC decide to cancel this Contract due to such breach, the Contractor agrees to pay the NCRPC the sum equal to 10% of the total amount of the contract as liquidating damages. Should

the Contractor fail to complete the contract by the termination date of the contract and a time extension has not been executed, the Contractor agrees to pay \$25.00 per day penalty for each NCRPC working day in which the contract is not completed and accepted by the NCRPC.

19. INSURANCE AND PROTECTION

The Contractor shall not commence work under this Contract until he has obtained all the insurance required under this paragraph and such insurance has been approved by the Grantee. The Contractor shall furnish the NCRPC with certificates showing the type, amount, class of operations covered, effective dates and date of expiration of policies. Such certificates shall also contain substantially the following statement: "The insurance covered by this certificate will not be canceled or materially altered, except after ten (10) days written notice has been received by the NCRPC".

20. REQUIRED INSURANCE COVERAGE REQUIRED LIMITS OF LIABILITY

1) Worker's Compensation Including Employer's Liability & Disease Liability	Statutory for Kansas per K.S.A. 44-501
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- a. NCRPC will before awarding bids require Worker's Compensation insurance coverage on all employees of contractors or subcontractors working under contractor and subcontractor supervision on the Weatherization Assistance Program. Proof in the form of a declaration page will be adequate.

2) Comprehensive General Liability:

Bodily Injury Limits	\$100,000 per occurrence
Property Damage Limits & Completed Operations	\$100,000 per occurrence/ \$ 50,000 aggregate

- a. The NCRPC shall be named on the policy as co-insured.
- b. Protective liability coverage must be included for the operations of all subcontractors engaged by Contractor.
- c. Where applicable, property damage liability must be insured for blasting, the collapse of or structural injury to any building or structure and damage to underground property such as wires, conduits, pipes, mains, sewers or similar property.

3) Comprehensive Automobile Liability:

Injury Limits	\$100,000 per person/\$100,000 per accident
Property Damage Limits	\$ 50,000 per accident

The Contractor will be responsible at all times for any possible loss of his own tools or apparatus

due to fire, lightning storm or theft; and will be responsible for any damages to this work on account of operations.

21. LAWS, PERMITS AND TAXES

Contractor will obtain and pay for all necessary licenses, permits and privileges required in his work, and perform all work in strict accordance with the laws and ordinances in force in the State of Kansas, and **in the locality in which this work is to be performed**. He will investigate what Federal, State or Municipal laws and requirements are applicable and comply with all such in an approved manner. The Contractor shall pay all applicable taxes, including payroll, unemployment, sales and other miscellaneous overhead expenses applicable to this work; and it will be understood that the Contractor has included the cost of these items in his bid.

22. TERMINATION OF CONTACT

In case, for any reason after this Contract is awarded, the work should be stopped or indefinitely postponed or delayed by Federal or other public order, or lack of funding from the State of Kansas, making it desirable for the NCRPC or Contractor that the Contract be canceled; then an audit will be made by a representative of the NCRPC of the Contractor's costs up to the date of cancellation, and a settlement made between the NCRPC and Contractor in such manner as to cause no monetary loss to the Contractor, and at the least justifiable cost to the NCRPC.

23. WAIVER

Failure by the NCRPC to enforce any provisions of this contract shall not be considered or interpreted as a waiver by the Grantee of any of the covenants herein.

24. REPORTS AND INFORMATION

The Contractor, at such times and on such forms as the State of Kansas may require, shall furnish the State or NCRPC such periodic reports as it may request pertaining to the work or service undertaken pursuant to this Contract, the costs and obligations incurred or to be incurred in connection therewith, and other matters covered by this Contract.

25. RECORDS AND AUDITS

The Contractor shall maintain accounts and records, including personnel, property and financial records, adequate to identify and account for all costs pertaining to the Contract and such other records as may be deemed necessary by the NCRPC/State of Kansas to assure proper accounting for all project funds, both Federal and nonfederal shares. These records will be made available for audit purposes to the NCRPC or any authorized representative, and will be retained for three (3) years after the expiration date of this Contract, unless permission to destroy them is granted by the NCRPC.

It is understood that all records pertinent to this weatherization grant program shall be accessible to authorized representatives of the Kansas Housing Resources Corporation, the Secretary of the Department of Energy and the Kansas Department of Families and Children, the Inspector General of the United States and the General Accounting Office.

26. CONFLICT OF INTEREST

The Contractor covenants that he presently has no interest and shall not acquire any interest, direct or indirect, in the project or any parcels therein, or any other interest which would conflict in any manner or degree with the performance of his service hereunder. The Contractor further covenants that in the performance of this Contract, no person having any such a conflict of interest shall be employed.

27. SPECIAL REGULATIONS AND ATTACHMENTS

Each bidder shall be aware of the Federal and State funding of this project. Monies for this project will be received from the Kansas Housing Resource Corporation through the Department of Energy and the Kansas Department of Families and Children. The Contractor agrees to adhere to and otherwise abide by the regulations attached hereto as Exhibit "A". A breach of these regulations may be grounds for termination of this Contract by the NCRPC.

EXHIBIT A

All Contractors shall subscribe to the following regulations as outlined below. (A description of each law may be obtained by calling the NCRPC, Beloit, KS)

CIVIL RIGHTS

- A. Kansas Nondiscrimination Law
- B. Civil Rights Act of 1964
- C. Section 109 of the Housing & Community Development Act.
- D. Age Discrimination Act of 1975, as amended
- E. Section 504 of the Rehabilitation Act of 1978
- F. Title VIII of the Civil Rights Act of 1968, as amended
- G. Executive Order 11063 as amended
- H. Special Equal Opportunity provisions (EO 11246)
- I. American Disability Act of 1990
- J. Fair Housing Amendments Act of 1988
- K. Executive Order 11246
- L. Section 106(d) (5) (B) of Title 1 of the Housing Community Development Act of 1974, as amended
- M. Section 906 and 912 of the Cranston-Gonzales National Affordable Housing Act.

COMPLAINT PROCEDURES

All complaints or concerns regarding denials or delays of weatherization services, civil rights, fair housing, the Housing Director, the inspector, the contractor(s), the contractor's workmanship, the bid procedure(s), the awarding of the contracts etc., should first be made in writing to the Weatherization Director, PO Box 565, Beloit, KS. NCRPC will then observe the following procedure:

Level 1: The NCRPC Weatherization Director receives a written complaint.

The Weatherization Director contacts the project inspector if the controversy is regarding workmanship, client treatment, or contractor misunderstandings. The inspector and contractor will meet on site and address the client or contractor concerns. Within 15 days of receipt of complaint, a written resolution will be made to the complainant and a copy of the resolution will be forwarded to the NCRPC Executive Director.

The Weatherization Director will immediately advance the complaint to level 2 if the complaint is on fair housing, civil rights, procurement or an environmental issue. If the complaint is not one of those, it moves directly to level 3.

The complainant has the right to appeal the decision and must do so in writing to the NCRPC Weatherization Director within fifteen days from date of the written resolution.

Level 2:

The written complaint concerning fair housing, civil rights, procurement, the environment or an appeal of a previous decision will be reviewed by the NCRPC Executive Director with the assistance of the NCRPC attorney. If the complaint is a fair housing or civil rights concern, NCRPC may submit the complaint to the Salina Human Relations Office for investigation and resolution.

After review, a written decision will be made to the complainant and the NCRPC Executive Board.

The complainant has the right to appeal the decision and must do so in writing to the NCRPC Executive Director within fifteen days from date of the written resolution.

Level 3: A written appeal is received by the NCRPC from the complainant.

The Executive Board shall appoint an independent panel, which will consist of three (3) individuals from the Executive Board with the assistance from the NCRPC Attorney

All written evidence will be made available to the panel for their deliberation. The panel shall present a written resolution to the Executive Board and the complainant within (15) days of appointment.

The complainant has the right to appeal the decision and must do so in writing to the NCRPC Executive Director within fifteen days from date of the written resolution.

Level 4: The NCRPC receives a written appeal from the complainant.

The NCRPC Executive Board will then have seven (7) days to review the panel's decision and accept or deny the panels solution, whereupon the Executive Board will make the final decision and inform the complainant of the decision in writing.

The decision of the NCRPC Executive Board is final unless the complainant wishes to appeal the decision to the Kansas Housing Resources Corporation, Topeka, KS.

Clients may appeal the decision of the NCRPC Executive Board by writing to Kansas Housing Resources Corporation within 10 days of formal notification. Appeals should be addressed to:
KHRC, Weatherization Program Manager, 611 S Kansas Ave, Suite 300, Topeka, KS 66603.