

**REQUEST FOR PROPOSAL**

**Iowa Office of Energy Independence**

**Iowa Home Efficiency Loan Program**

**RFP No. \_\_\_\_\_**

**October 11, 2010**

## TABLE OF CONTENTS

Section 1 Introduction .....	
1.1 Purpose.....	
1.2 Definitions .....	
Section 2 Administrative Information .....	
2.1 Overview of the RFP process.....	
2.2 Issuing Officer .....	
2.3 Restriction on communications .....	
2.4 Downloading the RFP from the internet.....	
2.5 Procurement timetable .....	
2.6 Questions and requests for clarification .....	
2.7 Amendments to the RFP .....	
2.8 Amendment and withdrawal of proposal .....	
2.9 Submission of proposals.....	
2.10 Completeness of proposals .....	
2.11 Proposal opening.....	
2.12 Cost of preparing proposal.....	
2.13 Rejection of proposals.....	
2.14 Disqualification .....	
2.15 Nonmaterial variances .....	
2.16 Information from other sources .....	
2.17 Verification of proposal contents.....	
2.18 Proposal clarification process .....	
2.19 Disposition of proposals .....	
2.20 Public records and requests for confidential treatment .....	
2.21 Copyright permission .....	
2.22 Release of claims .....	
2.23 Evaluation of proposals .....	
2.24 Notice of award and acceptance period .....	
2.25 No contract rights until a contract is signed .....	
2.26 Choice of law and forum .....	
2.27 Restrictions on gifts and activities .....	
2.28 Appeals .....	
2.29 No minimum guaranteed .....	

### Section 3 Form and Content of Proposals

- 3.1 Instructions.....
- 3.2 Technical Proposal.....
- 3.3 Cost proposal.....

### Section 4 Specifications and Technical Requirements

- 4.1 Background.....
- 4.2 Services sought by the RFP.....
- 4.3 Overview of specifications and technical requirements.....
- 4.4 Mandatory scored technical requirements .....

### Section 5 Evaluation and Selection

- 5.1 Introduction.....
- 5.2 Evaluation committee .....
- 5.3 Overview of evaluation process .....
- 5.4 Evaluation criteria .....
- 5.5 Evaluation of technical proposals .....
- 5.6 Evaluation of cost proposals .....
- 5.7 Interviews .....

### Section 6 Contractual Terms and Conditions .....

## Section 1 Introduction

### 1. Introduction

#### 1.1 Purpose

Through this Request for Proposals (RFP) the Iowa Office of Energy Independence seeks proposals from Responsible Proposers to act as the program administrator for the Iowa Home Efficiency Loan Program, a residential revolving loan program capitalized with federal funds, including American Recovery and Reinvestment Act funds, from the United States Department of Energy's State Energy Program funds. OEI intends to award a contract to a Responsible Proposer to act as the program administrator for the Iowa Home Efficiency Loan Program. In addition, the Responsible Proposer will act as the program administrator for administering rebates for the purchase of eligible equipment purchased under the Iowa Home Efficiency Loan Program.

#### 1.2 Definitions

For purposes of this RFP, the following terms mean:

1.2.1 "Certified Contractor" means a contractor, including but not limited to a general heating, air conditioning, or lighting contractor (1) that is certified by the Program Administrator to market the program to potential qualified borrowers and make Clean Energy Improvements that may be financed by an Energy Improvement Loan and (2) that is certified by the Program Administrator to market the program to potential qualified borrowers and make Clean Energy Improvements that may be financed by Energy Improvement Loans.

1.2.2 "Energy Efficiency Improvement" means any repair of or addition to residential real property completed by or under the supervision of a Certified Contractor that improves the energy efficiency of the property

1.2.3 “Energy Improvement Loan” means a loan in a minimum amount of \$1,000 originated by the Program Administrator to a qualified borrower for financing one or more Energy Efficiency Improvements to the borrower’s primary residence or rental property. OEI anticipates that this loan will be unsecured.

1.2.4 “IHELP” means the Iowa Home Efficiency Loan Program.

1.2.5 “Program” means the Iowa Home Efficiency Loan Program.

1.2.6 “Program Administrator” means the entity selected by OEI to provide (1) Certified Contractor recruitment, certification, and training; (2) marketing the Program; (3) financial services, including loan origination, loan servicing, and related services; (4) customer service; (5) customer complaint resolution; (6) compliance with applicable laws; and (7) a Rebate program.

1.2.7 “OEI” means the Iowa Office of Energy Independence.

1.2.8 “Proposal” means a Contractor’s bid or proposal submitted in response to this RFP.

1.2.9 “Rebate” means a rebate, usually in the form of a pre-paid credit card, check, ect., for the purchase of eligible equipment.

1.2.10 “Responsible Proposer” means a Proposer that has the capability to perform the requirements of the RFP. In determining whether a Contractor is a Responsible Proposer, OEI may consider various factors including, but not limited to, the Proposer’s competence and qualifications to provide the goods or services requested, the Proposer’s integrity and reliability, the Proposer’s past performance of the services that are similar to the services sought by this RFP, the proposed terms of delivery, and the best interest of OEI and the State of Iowa.

1.2.11 “Responsive Proposal” means a Proposal that complies with the material provisions of this RFP.

1.2.12 “RFP” means this Request for Proposals and any attachments, exhibits, schedules or addenda to this RFP.

## Section 2 Administrative Information

### 2. Administrative information

#### 2.1 Overview of the RFP process

This RFP provides Proposers with the information needed for them to prepare competitive Proposals. The RFP process is for OEI's benefit and is intended to provide OEI with information to assist OEI in the selection process. It is not intended to be comprehensive. Each Proposer must determine all factors necessary for submission of a comprehensive Proposal.

#### 2.2 Issuing Officer

The Issuing Officer for this RFP is

Corey Goodenow  
509 E 9<sup>th</sup> Street  
Wallace State Office Building  
Des Moines, Iowa 50319  
Telephone: 515-725-0439  
Fax: 515-725-0428  
E-mail: [corey.goodenow@iowa.gov](mailto:corey.goodenow@iowa.gov)

The Issuing Officer is the sole point of contact regarding the RFP from the date of issuance until OEI issues a notice of intent to award the contract.

#### 2.3 Restriction on communications

From the issue date of this RFP until a notice of intent to award the contract is issued, Contractors may contact only the Issuing Officer. The Issuing Officer will respond only to written questions about the procurement process. Questions related to the

interpretation of this RFP must be submitted as provided in § 2.6 of the RFP. OEI may disqualify any Proposer if they contact any State employee other than the Issuing Officer about the RFP.

## **2.4 Downloading the RFP from the Internet**

The RFP will be posted at <http://bidopportunities.iowa.gov/> and all Addenda will be posted on OEI's website at [www.energy.iowa.gov](http://www.energy.iowa.gov). Contractors should check the website periodically for Addenda to this RFP, particularly if the Proposer downloaded the RFP from the Internet as the Proposer may not automatically receive Addenda. It is the Proposer's sole responsibility to check daily for Addenda to posted documents.

## **2.5 Procurement timetable**

Relevant Action	Date/Time (Local Time)
RFP is posted on TSB Website	October 11, 2010
OEI issues RFP on DAS website and sends to known providers	October 13, 2010
Written questions, requests for clarification, and suggested changes from Contractors due:	October 26, 2010 no later than 4:30 p.m.
OEI's written response to questions, requests for clarifications, and suggested changes:	November 2, 2010
Proposals Due:	November 9, 2010 no later than 4:30 p.m.
Interviews	November 23, 2010
Anticipated Date to issue Notice of Intent to Award:	November 29, 2010
Anticipated Date to execute contract:	December 31, 2010

## **2.6 Questions and requests for clarification**

Contractors may submit written questions and requests for clarifications about the RFP to OEI. The questions or requests for clarifications must be in writing and received by the Issuing Officer before the date and time identified in § 2.5 of the RFP. OEI will not accept oral questions. If the questions or requests for clarifications pertain to a specific



section of the RFP, a Proposer must reference the page and section number or numbers. OEI will send written responses to questions or requests for clarifications received from Contractors on or before the date listed in § 2.5 to all Contractors who submitted timely Proposals. OEI's written responses will be part of the RFP. OEI assumes no responsibility for oral representations made by its officers or employees unless those representations are confirmed in writing and incorporated into this RFP.

## **2.7 Amendments to the RFP**

OEI reserves the right to amend the RFP at any time using an addendum. Each Proposer must acknowledge receipt of all addenda in its Proposal. If OEI issues an addendum after the due date for receipt of Proposals, OEI may, in its sole discretion, allow Contractors to amend their Proposals in response to the addendum.

## **2.8 Amendment and withdrawal of proposal**

A Proposer may amend or withdraw and resubmit its Proposal at any time before the Proposals are due. The amendment must be in writing, signed by the Proposer, and received by the time set for the receipt of Proposals. OEI will not accept electronic mail or faxed amendments. Contractors must notify the Issuing Officer in writing before the due date for Proposals if they wish to completely withdraw their Proposals.

## **2.9 Submission of proposals**

OEI must receive the Proposal at the Issuing Officer's address identified in § 2.2 of the RFP before the "Proposals Due" date listed in the Procurement Timetable.

This is a mandatory requirement. OEI will not waive this requirement. OEI will reject any Proposal received after this deadline and will return the Proposal unopened to the Contractor.

Contractors mailing Proposals must allow ample mail delivery time to ensure timely receipt of their Proposals. Each Proposer is solely responsible to ensure that the Proposal is received before the deadline. Postmarking by the due date will not substitute for actual receipt of the Proposal. Nor will OEI accept electronic mail and faxed Proposals.

## **2.10 Completeness of proposals**

Contractors must furnish all information necessary to enable OEI to evaluate the Proposal. OEI will disqualify Proposals that fail to meet the mandatory requirements of the RFP, nor will it consider oral information provided by the Proposer as part of the Proposer's Proposal unless it is confirmed in writing.

#### **2.11 Proposal opening**

OEI will open Proposals after the deadline for submission of Proposals has passed. The Proposals will remain confidential until the Evaluation Committee has reviewed all of the Proposals submitted in response to this RFP and OEI has announced a notice of intent to award a contract. See Iowa Code § 72.3. OEI will make the names of Contractors who submitted timely Proposals publicly available after the Proposal opening, but the announcement of Contractors who timely submitted Proposals does not mean that an individual Proposal has been deemed technically compliant or accepted for evaluation.

#### **2.12 Cost of preparing proposal**

Each Proposer is solely responsible for the cost of preparing and delivery of its Proposal.

#### **2.13 Rejection of proposals**

OEI reserves the right to reject any Proposal, in whole or in part, received in response to this RFP at any time before the execution of a written contract. Issuance of this RFP does not constitute a commitment by OEI to enter into a contract.

#### **2.14 Disqualification**

OEI may reject outright and not evaluate Proposals for any one or more of the following reasons:

2.14.1 The Proposer fails to deliver the Technical and Cost Proposals in separate envelopes.

2.14.2 The Proposer acknowledges that a requirement of the RFP cannot be met.

2.14.3 The Proposer's Proposal materially changes a requirement of the RFP or the Proposal does not comply with the requirements of the RFP.

2.14.4 The Proposer's Proposal limits the rights of OEI.

2.14.5 The Proposer fails to include information necessary to substantiate that it will be able to meet a requirement of the RFP.

2.14.6 The Proposer submits an incomplete cost proposal.

2.14.7 The Proposer fails to respond timely to OEI's request for information, documents, or references.

2.14.8 The Proposer fails to include any signature, certification, authorization, stipulation, disclosure, or guarantee requested in section 6 of this RFP.

2.14.9 The Proposer presents the information requested by this RFP in a format inconsistent with the instructions of the RFP or otherwise fails to comply with the requirements of this RFP.

2.14.10 The Proposer initiates unauthorized contact regarding the RFP with State employees.

2.14.11 The Proposer provides misleading or inaccurate responses.

2.14.12 There is insufficient evidence (including evidence submitted by the Proposer and evidence obtained by OEI from other sources) to satisfy OEI that the Proposer is a Responsible Proposer.

## **2.15 Nonmaterial variances**

OEI reserves the right to waive or permit cure of nonmaterial variances in a Proposal if, in OEI's judgment, it is in the State's best interest to do so. Nonmaterial variances include: minor failures to comply that do not affect overall responsiveness, that are merely a matter of form or format, that do not change the relative standing or otherwise prejudice other Contractors, that do not change the meaning or scope of the RFP, or that do not reflect a material change in the requirements of the RFP. If OEI

waives or permits cure of nonmaterial variances, the waiver or cure will not modify the RFP requirements or excuse the Proposer from full compliance with RFP specifications or other contract requirements if the Proposer is awarded the contract. The determination of materiality is in the sole discretion of OEI.

#### **2.16 Information from other sources**

OEI reserves the right to obtain and consider information from other sources concerning a Proposer, such as the Proposer's capability and performance under other contracts, the qualifications of any subcontractor identified in the Proposal, the Proposer's financial stability, past or pending litigation, and publicly available information.

#### **2.17 Verification of proposal contents**

OEI may verify the content of a Proposal submitted by a Proposer. If OEI determines in its sole discretion that the content of a Proposal is in any way misleading or inaccurate, OEI may reject the Proposal.

#### **2.18 Proposal clarification process**

OEI reserves the right to contact a Proposer after the submission of Proposals for the purpose of clarifying a Proposal. A request for clarification may include written questions, interviews, site visits, a review of past performance if the Proposer has provided goods, services, or both to the State or any other political subdivision wherever located, or requests for corrective pages in the Proposer's Proposal. OEI will not consider information received from or through the Proposer if the information materially alters the content of the Proposal or the type of goods, services, or both that the Proposer is offering to OEI. An individual authorized to legally bind the Proposer must sign responses to any request for clarification. OEI may reject a Proposal that fails to comply with requests for additional information.

#### **2.19 Disposition of proposals**

All Proposals will become the property of OEI and will not be returned to the Proposer. Once OEI issues a Notice of Intent to Award the Contract, the contents of all Proposals will be in the public domain and open to inspection by interested parties, except for

information for which a Proposer properly requests confidential treatment or subject to exceptions provided in Iowa Code chapter 22 or other applicable law.

## **2.20 Public records and requests for confidential treatment**

OEI may treat all information submitted by a Proposer as public records unless the Proposer properly requests that specific parts of the Proposal be treated as confidential when it submits its Proposal. OEI's release of public records is governed by Iowa Code chapter 22. Contractors should familiarize themselves with chapter 22 before submitting a Proposal. OEI will copy and produce public records as required to comply with chapter 22 or other applicable law.

A Proposer must include any request for confidential treatment of specific information in the transmittal letter that must accompany a Proposer's Proposal. In addition, the Proposer must identify the specific grounds in Iowa Code chapter 22 or other applicable law that support treatment of the material as confidential and explain why disclosure is not in the best interest of the public. OEI will not consider pricing information as confidential information. The request for confidential treatment of information must also include the name, address, and telephone number of the person authorized by the Proposer to respond to any inquiries by OEI concerning the confidential status of the materials.

If the Proposer is seeking confidential treatment of any information contained in a Proposal, the Proposer must conspicuously mark the Proposal on the outside that it contains confidential information, and each page upon which confidential information appears must be conspicuously marked that it contains confidential information.

Failure to properly identify specific confidential information will relieve OEI or State personnel from any responsibility if confidential information is viewed by the public or a competitor, or is in any way accidentally released. If the Contractor identifies its entire Proposal as confidential, OEI may reject the Proposal as non-responsive.

If the Proposer designates any portion of the Proposal as confidential, the Proposer must submit one copy of the Proposal from which the confidential information has been excised. The confidential material must be excised in such a way as to allow the public to determine the general nature of the material removed and to retain as much of the Proposal as possible.

If OEI receives a request for information that includes information a Proposer has marked as confidential, OEI will notify the Proposer five calendar days before releasing the information to allow the Proposer to seek injunctive relief under Iowa Code § 22.8. OEI will release the information marked confidential in response to a request for public records unless a court of competent jurisdiction determines the information is confidential under Iowa Code chapter 22 or other applicable law.

OEI will treat a Proposer's failure to request confidential treatment of material under this section as a waiver of any right to confidentiality the Proposer may have had.

#### **2.21 Copyright permission**

By submitting a Proposal, the Proposer agrees that OEI may copy the Proposal for purposes of facilitating the evaluation of the Proposal or to respond to requests for public records. By submitting a Proposal, the Proposer consents to such copying and warrants that such copying will not violate the rights of any third party. In addition, by submitting a Proposal, the Proposer agrees that OEI will have the right to use ideas or adaptations of ideas that are presented in Proposals.

#### **2.22 Release of claims**

By submitting a Proposal, the Proposer agrees that it will not bring any claim or cause of action against OEI based on any misunderstanding concerning the information provided in this RFP or concerning OEI's failure, negligent or otherwise, to provide the Proposer with pertinent information as intended by this RFP.

#### **2.23 Evaluation of proposals**

OEI will review Proposals that are timely submitted and are not rejected under Section 2.14 of the RFP. OEI will not necessarily award a contract resulting from this RFP to the Proposer offering the lowest cost to OEI. Instead, OEI will award the Contract to the Responsible Proposer whose Responsive Proposal OEI believes will provide the best value to OEI and the State.

#### **2.24 Notice of award and acceptance period**

OEI will send a Notice of Intent to Award the contract or contracts to all Contractors who submitted timely Proposals. In addition, OEI may post the Notice on its website.

Negotiation and execution of the Contract or Contracts must be completed no later than 90 days from the date of the Notice of Intent to Award or such other time as designated by OEI. If a successful Proposer fails to negotiate and deliver an executed contract by that date, OEI, in its sole discretion, may cancel the award and award the contract to another Proposer that OEI believes will provide the best value to OEI and the State.

#### **2.25 No contract rights until a contract is signed**

No Proposer will acquire any legal or equitable rights regarding the Resulting Contract unless and until the Resulting Contract has been fully executed by the successful Proposer and OEI.

#### **2.26 Choice of law and forum**

The laws of the State of Iowa will govern this RFP and the Resulting Contract or Contracts. Changes in applicable laws and rules may affect the award process or the Resulting Contract. Contractors are responsible for ascertaining pertinent legal requirements and restrictions. All litigation or actions commenced in connection with this RFP must be brought in the appropriate Iowa forum.

#### **2.27 Restrictions on gifts and activities**

Iowa Code chapter 68B restricts gifts that may be given or received by State employees and requires certain individuals to disclose information concerning their activities with State government. Contractors are responsible to determine the applicability of chapter 68B to their activities and to comply with the chapter's requirements. In addition, under Iowa Code § 722.1, it is a felony offense to bribe or attempt to bribe a public official.

#### **2.28 Appeals**

If a Proposer who submitted a timely proposal disagrees with an award decision, it may appeal that decision by submitting a written appeal to OEI's director detailing the factual and legal basis for the challenge within five calendar days of the Notice of Intent to Award. The Issuing Officer may submit a written response to the Proposer's written appeal within five business days after receipt of the appeal. OEI's director or designee will issue a written decision within seven business days of receipt of the Issuing Officer's written response.

## **2.29 No minimum guaranteed**

OEI does not guarantee a minimum level of purchases or services under this RFP.



## Section 3 Form and Content of Proposals

### 3. Form and content of proposals

#### 3.1 Instructions

These instructions prescribe the format and content of the Proposal. They are designed to facilitate a uniform review process. OEI may reject any Proposal that fails to adhere to these instructions.

3.1.1 The Proposal must be typewritten on 8.5" x 11" paper and mailed to the attention of the Issuing Officer.

3.1.2 The Proposal must be divided into two parts: (1) the Technical Proposal and (2) the Cost Proposal. The Cost Proposal must be in a separate sealed envelope. If multiple envelopes for each Proposal are used, the envelopes must be numbered in the following fashion: 1 of 4, 2 of 4, etc. The envelopes must be labeled with the following information:

***Iowa Home Efficiency Loan Program***

***Iowa Office of Energy Independence***

***Wallace State Office Building***

***502 E. 9<sup>th</sup> Street***

***Des Moines, IA 50319***

***[Proposer's Name and Address]***

OEI is not responsible for misdirected packages or premature opening of Proposals if a Proposal is not properly labeled.

3.1.3 One original and 3 copies of the Proposal, each in a sealed envelope, and one copy of the proposal in electronic format (disk, thumb drive, etc.) must be timely submitted to the Issuing Officer.

3.1.4 If the Proposer designates any information in its Proposal as confidential as permitted by § 2.20 of the RFP, the Proposer must also submit one PDF copy of the Proposal from which confidential information has been excised as provided in § 2.20.

3.1.5 Proposals must not contain promotional or display materials.

3.1.6 Attachments must be referenced in the Proposal.

## **3.2 Technical proposal**

The Technical Proposal must include the following documents and responses in the order given below:

### **3.2.1 Transmittal letter**

An individual authorized to legally bind the Proposer must sign the transmittal letter. The letter must include the Proposer's mailing address, electronic mail address, fax number, and telephone number. The transmittal letter must also include any request for confidential treatment of information under § 2.20 of the RFP.

### **3.2.2 Specifications and technical requirements**

The Proposer must answer whether or not it will comply with each requirement in § 4 of the RFP. Where the context requires more than a yes or no answer or the RFP indicates, Proposer must explain how it will comply with each requirement in § 4. OEI may reject any Proposal that merely repeats the requirements. Proposals must identify any deviations from the requirements of this RFP or requirements the Proposer cannot satisfy. OEI may reject any proposal (1) that deviates from the RFP's requirements or (2) that fails to satisfy any requirement of the RFP.

### **3.2.3 Background information**

The Proposer must provide the following general background information:

- a. Name, address, telephone number, fax number, and e-mail address of the Proposer including all d/b/a's, assumed, or other operating names of the Proposer.
- b. Form of business entity, i.e., corporation, partnership, proprietorship, limited liability company.
- c. State of incorporation, state of formation, or state of organization.
- d. Name, address, and telephone number of the Proposer's representative to contact regarding all contractual and technical matters concerning the Proposal.
- e. The successful Proposer will be required to register to do business in Iowa. If already registered, provide the date of the Proposer's registration to do business in Iowa and the name of the Proposer's registered agent.
- f. Name and qualifications of any subcontractors who will be involved with this project.

#### **3.2.4 Experience**

The Proposer must provide the following information about its experience:

- a. Number of years in business.
- b. Number of years experience with providing the services sought by this RFP.

#### **3.2.5 Termination, debarment, and litigation**

The Proposer must provide the following information for the past 5 years:

- a. Has the Proposer had a contract for goods or services, or both, terminated for any reason? If so, provide full details regarding the termination.
- b. Describe any damages or penalties assessed against, or dispute resolution settlements entered into by, the Proposer under any existing or past

contracts for goods or services, or both. Provide full details about the incident, including the dollar amount of damages, penalties, and settlement payments.

- c. Describe any order, judgment, or decree of any federal or state authority barring, suspending, or otherwise limiting the right of the Proposer to engage in any business, practice, or activity.
- d. A list and summary of all litigation or threatened litigation, administrative or regulatory proceedings, or similar matters to which the Proposer or its officers have been a party.
- e. Any irregularities discovered in any of the accounts maintained by the Proposer on behalf of others. Describe the circumstances and disposition of the irregularities. Failure to disclose these matters may result in rejection of the Proposal or in termination of any subsequent contract. The above disclosures are a continuing requirement of the Proposer. A Proposer must provide written notification to OEI of any such matter commencing or occurring after submission of a Proposal, and with respect to the successful Proposer, following execution of the Resulting Contract.

#### **3.2.6 Acceptance of terms and conditions**

The Proposer must specifically agree that the Proposal is predicated upon the acceptance of all contractual terms and conditions stated in § 6 of the RFP. If the Proposer objects to any term or condition, the Proposer must specifically refer to the RFP page and section and provide the reason for the objection. OEI may reject a Proposal where any objection or response materially alters the RFP.

#### **3.2.7 Certification letter**

The Proposer must sign and submit with the Proposal the document included as Attachment #1 (Certification Letter).

#### **3.2.8 Authorization to release information**

The Proposer must sign and submit with the Proposal the document included as Attachment #2 (Authorization to Release Information Letter).

### 3.2.9 Firm proposal terms

The Proposer must guarantee in writing the availability of the goods or services, or both, offered and that all Proposal terms, including price, will remain firm a minimum of 120 days following the deadline for submitting Proposals.

## 3.3 Cost proposal

3.3.1 The Proposer must identify how it will be compensated for providing services under this RFP, including any of the following:

- .a cost of loan origination;
- .b cost of loan servicing;
- .c any up-front set-up fees/charges or any other fees/charges;
- .d describe how OEI increasing the amount of funds available for the Program will affect the Proposer's compensation structure; and
- .e the cost of administering Rebates for eligible equipment purchases.

3.3.2 In addition, the Proposer must identify the interest rate that will be charged to the borrower, assuming (1) all the items in §§ 3.3.1 through 3.3.6 and (2) a 2% cost of funds.

## Section 4 Specifications and Technical Requirements

## **4. Specifications and Technical Requirements**

### **4.1 Background**

OEI is developing IHELP to offer streamlined and low cost financing to support investment in energy efficiency. OEI's support of energy efficiency will provide for new jobs and reduce the state's dependence on imported energy.

This Program will establish a loan program to provide financing to Iowa homeowners by offering loans with a minimum amount of \$1,000 that will fund investments in energy efficiency. The Program's objective is that these loans will be available to homeowners through a program marketed primarily through private sector energy efficiency contracts and that evaluation of loan applications will be fast. In almost all cases, borrowers would know within minutes if they qualify for a loan.

The essential features of the Program are as follows:

- OEI will provide about \$4 million as lending capital for the Program, with the possibility of OEI providing additional capital while the Program is operating.
- The Program will serve residential homeowners in Iowa with loans to support their investments in energy efficiency.
- OEI will establish an initial loan-loss reserve fund to cover potential program losses at a level to be determined by OEI.
- OEI may decide, in its sole discretion, to buy down interest rates on Energy Improvement Loans the Program Administrator makes to qualified borrowers.
- OEI, or an entity acting on OEI's behalf, will purchase Energy Improvement Loans from the Program Administrator in pools of a size to be negotiated with the Program Administrator. The Program Administrator, however, will remain

responsible for servicing any Energy Improvement Loan that OEI or its agent purchases.

- The Program Administrator will provide these services described in this RFP.
- The Program will include rebates on the purchase of equipment that is also eligible to receive financing through this program. OEI anticipates that it will be able to fund approximately \$800,000 of rebates. OEI requests that the proposer, at its option, offers suggestions on how large the rebates should be given the availability of this financing. The rebates will be offered a first come, first served basis.

#### **4.2 Services sought by the RFP**

4.2.1 The Proposer will administer the Program. Program administration includes seven main areas of emphasis: (1) Certified Contractor recruitment, certification, and training; (2) marketing the Program; (3) financial services, including loan origination, loan servicing, and related services; (4) customer service; (5) customer complaint resolution; (6) compliance with applicable laws; and (7) a Rebate program management.

4.2.2 Proposer's responsibilities for certifying contractors. The Proposer must provide its plan for recruiting, certifying, and monitoring the work of its contractors. As part of that plan, the Proposer must demonstrate that, at a minimum, it will certify Contractors who:

- .a provide evidence of proper licensure and certification to perform the work proposed;
- .b maintain insurance coverage that complies with Program requirements;
- .c demonstrate that one or more of its staff is certified by the Building Performance Institute or equivalent certification standards; and
- .d meet additional qualifications beyond these minimum criteria subject to the expertise and judgment of the Proposer.

#### 4.2.3 Proposer's training responsibilities.

.a The Proposer must explain its plan to educate Certified Contractor about the Program, including, without limitation, the following topics:

- (1) strategies, opportunities, and requirements for contractors to participate in the Program;
- (2) the loan application process for borrowers;
- (3) the program details including but not limited to qualifying measures, program interest rates, and terms;
- (4) estimated energy and cost savings for customers who purchase eligible equipment;
- (5) methods to market and sell the Program to customers;
- (6) resources available to assist contractors in identifying and understanding incentives available to customers and to understand renewable energy or energy efficiency technologies; and
- (7) other programs available to customers, including energy efficiency programs offered by utilities.

.b In addition, Proposer must demonstrate that its training program will incorporate the certification protocols of the Building Performance Institute for the training of those Contractors who choose to participate. OEI realizes that not all contractors will be trained to achieve full BPI certification. Consequently, OEI encourages each Proposer to offer a training program that incorporates both BPI and other levels of certification. In doing so, OEI encourages each Proposer to consider using Iowa-based organizations to participate in contractor training.



.c The Proposer will provide a series of periodic training seminars to Certified Contractors to ensure a minimum number of training sessions are offered in geographically convenient locations around the state.

.d All Certified Contractors must participate in at least one training session within three months of becoming a Certified Contractor.

.e The Proposer must demonstrate its ability to develop a network of participating Certified Contractors that is appropriate to produce a loan volume sufficient to provide for full use of the loan allocated to this Program by no later than March 30, 2012.

.f The Proposer will provide training to five members of the OEI staff or staff of partnering organizations on an annual basis.

#### 4.2.4 Marketing responsibilities

.a The Proposer must develop and implement a marketing plan to help market the Program.

.b Proposer's proposal must explain in detail how the Proposer will market the Program to ensure maximum participation of Iowans in the Program.

.c Proposer's proposal must explain in detail how its marketing plan will work with Iowa companies and groups to help market the Program.

#### 4.2.5 Financial services

.a Proposer must have the necessary experience and financial and other resources to originate the Energy Improvement Loans.

.b Proposer must establish the maximum amount of each Energy Improvement Loan, which OEI prefers will be unsecured.

.c Proposer must be able to provide point-of-sale approval of Energy Improvement Loans. Proposer should indicate its average approval time.

.d Proposer must describe in detail the loan products that it will offer for the Energy Improvement Loans.

.e Proposer should specify if it will allow Contractors, manufacturers and/others to “buy down” interest rates for borrowers.

.f Loan origination responsibilities:

- (1) develop loan underwriting criteria, using consumer credit scores and other measures of a consumer’s ability to pay that is acceptable to OEI;
- (2) establish and maintain a toll-free phone number and website for easy processing of loan documentation and to serve as an informational resource for borrowers and contractors; and
- (3) establish loan qualifications for loans to potential borrowers using a streamlined and easy-to-navigate approach.

.g Loan servicing responsibilities:

- (1) servicing of loans through the full life of the loans;
- (2) establishing the values and timing of sales of loans to OEI or an entity acting on OEI’s behalf; and
- (3) managing, tracking, and reporting of financial transactions to OEI each month.

#### 4.2.6 Customer service responsibilities.

.a Proposer must develop and maintain an effective customer service center with both web and toll free telephone number access that will be dedicated solely to the Program.

.b Proposer must identify where the customer service center will be located.

.c The customer service center will have hours of operation that are consistent with Program needs. In particular, the customer service center's hours should reflect that transactions that will likely occur before or after normal business hours and during other times where Certified Contractors will be likely to be interacting with customers.

.d Proposer must describe the training that it will provide for workers in the customer service center including the on how it will customize any training and customer service operations for Iowa.

#### 4.2.7 Customer complaint resolution program.

.a Proposer must develop and maintain a customer complaint resolution process to resolve customer complaints quickly.

#### 4.2.8 Compliance with applicable laws.

.a Proposer must also develop and maintain a program to ensure that it will comply with applicable laws, including without limitation lending and consumer protection laws.

#### 4.2.9 Rebate program.

.a A Proposer must explain how it would develop, implement and manage a Rebate program for the purchase of eligible equipment, including identifying how the Proposer proposes to pay the rebate (check, pre-paid credit card, or other instrument), how it proposes to integrate the loan program with the rebate program, and processing time for rebates.

### **4.3 Overview of specifications and technical requirements**

The successful Proposer will provide the services to OEI in accordance with the technical specifications defined in this Section. The Proposer must address each requirement in this Section and explain how it will comply with each requirement. Proposals must be fully responsive to each requirement. OEI may reject any Proposal that merely repeats the requirements as non-responsive. Proposals must identify any deviations from the requirements of this RFP or requirements the Proposer cannot satisfy. OEI may reject any Proposal that deviates from the requirements of Section 4 or other portion of the RFP that the Proposer cannot satisfy.

### **4.4 Mandatory scored technical requirements**

All items listed below are Scored Technical Requirements. The contractor must address all of the scored technical requirements; OEI will evaluate and score these requirements in accordance with § 5.

4.4.1 Each Proposal must describe the work plan and methodology that the Proposer will use to recruit and train Certified Contractors as required by §§ 4.2.2, 4.2.3, 4.2.4, and 4.2.5.

4.4.2 Each Proposal must describe the work plan and methodology that the Proposer will use to market the Program as required by § 4.2.6.

4.4.3 Each Proposal must describe the work plan and methodology that the Proposer will use to provide the financial services as required by § 4.2.7.

4.4.4 Each Proposal must describe the work plan and methodology that the Proposer will use to resolve customer complaints and comply with applicable lending laws as required by § 4.2.8.

4.4.5 Each Proposal must describe the work plan and methodology that the Proposer will use to provide the Rebate services as required by § 4.2.9.

4.4.6 Each Proposal must describe the reports the Proposer will need from OEI as well as describe any reports the Proposer will provide OEI.

4.4.7 Each Proposal must demonstrate that the Proposer will ensure that critical and confidential information related to the Program remains confidential, where necessary and allowed by law. The Proposer must also detail any potential conflicts of interest.

#### 4.5 **Minumum Score**

A Proposal must receive a minimum of 60% of the points possible on their Technical Proposal to have their cost proposal scored and be fully considered as a Responsible Proposer.

## Section 5 Evaluation and Selection

### 5. Evaluation and Selection

#### 5.1 Introduction

This section describes the evaluation process OEI will use to determine which Proposal or Proposals provides the greatest benefit to OEI and the State. OEI will not necessarily award any contract resulting from this RFP to the Proposer offering the lowest cost to OEI. Instead, OEI will award the contract to the Responsible Proposer whose Responsive Proposal OEI believes will provide the best value to OEI and the State.

#### 5.2 Evaluation committee

OEI will conduct a comprehensive, fair, and impartial evaluation of Proposals received in response to this RFP. It will use an evaluation committee to review and evaluate the Proposals.

#### 5.3 Overview of evaluation process

All Proposals will be first evaluated to determine if they comply with the Scored Mandatory Technical Requirements described in Sections 4.3 and meet the minimum score as provided in Section 4.5. The evaluation committee will evaluate and score all Responsive Proposals submitted by Responsible Proposers in accordance with this section. To be a Responsible Proposer and a Responsive Proposal, the Proposal must:

5.3.1 explain how the Proposer will comply with each requirement in § 4, providing a detailed project plan and timeline; and

5.3.2 Meet a minimum score of 60% of the possible Technical Proposal points.

#### 5.4 Evaluation criteria

The Evaluation Committee will evaluate each Proposal using scoring criteria developed before the opening of the Proposals. The Evaluation Committee will award points weighted as follows:

5.4.1 Technical understanding and approach: 50% (§4.1 and 4.4)

5.4.2 Proposer experience: 30% (§ 3.2.4)

5.4.3 Cost: 15% (§ 3.3)

5.4.4 Contract risk: 5%

## **5.5 Evaluation of technical proposals**

The Evaluation Committee will evaluate the technical understanding and approach, contractor experience, and contract risk using criteria developed before the opening of the Proposals.

## **5.6 Evaluation of cost proposals**

To be considered, a Proposer's Proposal must receive at least 60% of the total possible score on the combined Technical Understanding and Approach, Proposer Experience and Contract Risk evaluations.

5.6.1 The cost proposal for each vendor will be evaluated in comparison with the other cost proposals received; however, the number of points possible will be proportional to each vendor's technical evaluation score.

5.6.2 The technical evaluation points received (numerator) is divided by the technical evaluation points possible (denominator) and multiplied by the maximum number of points in the cost evaluation. This provides the total points possible for the vendor in the cost evaluation.

Points Possible for Vendor =  
$$\frac{\text{Technical Evaluation Points Received}}{\text{Technical Evaluation Points Possible}} \times \text{Maximum Points in Cost Evaluation}$$

For example, suppose there are 20 maximum points in the cost evaluation. A vendor that receives 100% of the points possible in the technical evaluation has the opportunity to earn 100% of the points possible in the cost evaluation (e.g., 20 points). If the cost proposal is the lowest cost, the full 20 points will be awarded. However, a vendor that receives only 70% of the points possible in the technical evaluation has the opportunity to earn only 70% of the points possible in the cost evaluation (e.g., 14 points). If the cost proposal is the lowest cost, 14 points are awarded, compared to the 20 points that could have been awarded if the vendor had received the highest possible technical evaluation score.

5.6.3 Next, the lowest cost proposal (numerator) is divided by the cost proposal being evaluated (denominator) and multiplied by the points possible for the vendor. This provides the cost evaluation points awarded.

$$\text{Cost Evaluation Points Awarded} = \frac{\text{Lowest Cost Proposal Received}}{\text{Cost Proposal Being Evaluated}} \times \text{Points Possible for Vendor}$$

This result will be the final, weighted cost score.

## 5.7 Interviews

The Evaluation Committee will short list prospective Proposers whose proposal evaluation scores are in the competitive range, which will be determined by arranging the proposals from highest to lowest score and then looking for breaks in the scores such that natural groupings of similar scores may be identified. The Evaluation Committee will determine the competitive range in its sole discretion. The Evaluation Committee will interview the short list of prospective Contractors.

The Evaluation Committee will conduct the Interviews via teleconference and will last no more than 60 minutes. The Proposer team should be represented in the interview by the key personnel who will be working on the project. The Proposer team will have 20 minutes for summarizing their proposal emphasizing their strengths, direct experience, and specific topic and process expertise; 10 minutes to explain what they will do and the direct experience they have that will allow them to ensure success of the project (may reference similar projects and or applicable experience); 20 minutes for questions from the Evaluation Committee; and 10 minutes for questions from the Proposer team and wrap-up.



The points awarded from the interviews will be added to the points awarded from the written proposals to calculate the Proposer's total points.

#### 5.8 Interview evaluation criteria

The Evaluation Committee will evaluate each interview using the following criteria, with associated weighted values and possible additional points:

Criteria for Interview Evaluation	Weight
Professional and interpersonal skills of key project team members (max points 100)	40%
Demonstrated a depth of knowledge and experience (max points 75)	30%
Clarifications on what they will do to insure success of the project (max points 75)	30%

## Section 6 Contractual Terms and Conditions

### 6. Contractual Terms and Conditions

The Resulting Contract that OEI expects to award as a result of this RFP is attached as Attachment 3.

Attachment 3 is subject to change, modification, or supplementation by OEI.

Attachment 3 will enable Proposers to better evaluate the costs associated with the RFP and the Resulting Contract. Proposers must include all costs associated with complying with these requirements in its cost proposal.

By submitting a Proposal, each Proposer must acknowledge that it accepts the RFP's specifications and Attachment 3 except as expressly stated in its Proposal. If a Proposer takes exception to a provision, it must state the reason for the exception and set forth in its Proposal the specific contract language it proposes to include in place of the provision. OEI may, in its sole discretion, reject any Proposal in which exceptions materially change the contract terms and conditions found in Attachment 3 or the requirements of the RFP.

A Proposer cannot take any exception to any provisions related to compliance with the American Recovery and Reinvestment Act.

OEI reserves the right either to award a contract or contracts without further negotiation with the successful Proposer or to negotiate contract terms with the successful Proposer if the best interests of the State would be served.

**Attachment 1**  
**Certification Letter**

[Date]

Corey Goodenow, Issuing Officer  
Iowa Office of Energy Independence  
509 E. 9<sup>th</sup> Street  
Wallace State Office Building  
Des Moines, IA 50319

Re: Request for Proposal Number \_\_\_\_\_

**PROPOSAL CERTIFICATIONS**

Dear Mr. Goodenow:

I certify that the contents of the Proposal submitted on behalf of **[Name of Proposer]** (Proposer) in response to the Iowa Office of Energy Independence (OEI) for Request for Proposal Number \_\_\_\_\_ for Iowa Home Efficiency Loan Program (RFP) are true and accurate. I also certify that Contractor has not knowingly made any false statements in its Proposal.

**Certification of Independence**

I certify that I am a representative of Proposer expressly authorized to make the following certifications on behalf of Proposer. By submitting a Proposal in response to the RFP, I certify on behalf of Proposer that:

1. Proposer has developed the Proposal independently, without consultation, communication, or agreement with any employee or consultant to OEI, or with any person serving as a member of the evaluation committee.
2. Proposer has developed the Proposal independently, without consultation, communication, or agreement with any other contractor or parties for the purpose of restricting competition.

3. Proposer has not, and will not, knowingly disclosed, directly or indirectly, the information found in the Proposal before the OEI's issuance of the Notice of Intent to Award the contract, unless otherwise required by law.

4. Proposer has not made and will not make any attempt to induce any other contractor to submit or not to submit a Proposal for the purpose of restricting competition.

5. Proposer is unaware of any relationship that exists or will exist during the contract period between Proposer and OEI or any other State OEI that interferes with fair competition or constitutes a conflict of interest.

#### **Certification Regarding Debarment**

6. I certify that, to the best of my knowledge, neither Proposer nor any of its principals: (a) are presently or have been debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by a Federal OEI or State OEI; (b) have, within a three year period preceding this Proposal, been convicted of, or had a civil judgment rendered against them for: commission of fraud, a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction, violation of antitrust statutes; commission of embezzlement, theft, forgery, falsification or destruction of records, making false statements, or receiving stolen property; (c) are presently indicted for, or criminally or civilly charged by a government entity (federal, state, or local) with the commission of any of the offenses enumerated in (b) of this certification; and (d) have not within a three year period preceding this Proposal had one or more public transactions (federal, state, or local) terminated for cause.

This certification is a material representation of fact upon which OEI has relied upon when this transaction was entered into. If it is later determined that Proposer knowingly rendered an erroneous certification, in addition to other remedies available, OEI may pursue available remedies including debarment of the Proposer, or suspension or termination of the contract.

#### **Certification Regarding Registration, Collection, and Remission of Sales and Use Tax**

7. Under Iowa Code §§ 423.2(10) and 423.5(8) (2009), a retailer in Iowa or a retailer maintaining a business in Iowa that enters into a contract with a State agency must register, collect, and remit Iowa sales tax and Iowa use tax levied under Iowa Code chapter 423 on all sales of tangible personal property and enumerated services. The Act

also requires contractors to certify their compliance with sales tax registration, collection, and remission requirements and provides potential consequences if the certification is false or fraudulent.

By submitting a Proposal in response to the RFP, Proposer certifies the following: (check the applicable box)

- ☐ Proposer is registered with the Iowa Department of Revenue, collects, and remits Iowa sales and use taxes as required by Iowa Code chapter 432; or
- ☐ Proposer is not a “retailer” or a “retailer maintaining a place of business in this state” as those terms are defined in Iowa Code subsections 423.1(42) and (43).

Proposer also acknowledges that OEI may declare the Proposer’s Proposal or resulting contract void if the above certification is false. The Proposer also understands that fraudulent certification may result in OEI or its representative filing for damages for breach of contract in addition to other remedies available to OEI.

Sincerely,

---

**[Name and Title]**

**Attachment 2**  
**Authorization to Release Information Letter**

[Date]

Corey Goodenow, Issuing Officer  
Iowa Office of Energy Independence  
509 E. 9<sup>th</sup> Street  
Wallace State Office Building  
Des Moines, IA 50319

Re: Request for Proposal Number \_\_\_\_\_

**AUTHORIZATION TO RELEASE INFORMATION**

Dear Mr. Goodenow:

[name of Proposer] hereby authorizes OEI or a member of the Evaluation Committee to obtain information regarding its performance on other contracts, agreements or other business arrangements, its business reputation, and any other matter pertinent to evaluation and the selection of a successful Proposer in response to Request for Proposal Number \_\_\_\_\_.

Proposer acknowledges that it may not agree with the information and opinions given by such person or entity in response to a reference request. Proposer acknowledges that the information and opinions given by such person or entity may hurt its chances to receive contract awards from the State or may otherwise hurt its reputation or operations. Proposer is willing to take that risk.

Proposer hereby releases, acquits and forever discharges the State of Iowa, OEI, their officers, directors, employees and agents from any and all liability whatsoever, including all claims, demands and causes of action of every nature and kind affecting Proposer that it may have or ever claim to have relating to information, data, opinions, and references obtained by OEI or the Evaluation Committee in the evaluation and selection of a successful Proposer in response to the RFP.

Proposer authorizes representatives of OEI and the Evaluation Committee to contact any of the persons, entities, and references which are, directly or indirectly, listed, submitted, or referenced in Proposer's Proposal submitted in response to the RFP.

Proposer further authorizes all persons, entities to provide information, data, and opinions about Proposer's performance under any contract, agreement, or other business arrangement, its ability to perform, business reputation, and any other matter pertinent to the evaluation of Proposer's Proposal. Proposer hereby releases, acquits, and forever discharges any such person or entity and their officers, directors, employees and agents from any and all liability whatsoever, including all claims, demands and causes of action of every nature and kind affecting Proposer that it may have or ever claim to have relating to information, data, opinions, and references supplied to OEI or the Evaluation Committee in the evaluation and selection of a successful contractor in response to the RFP.

A photocopy or facsimile of this signed Authorization is as valid as an original.

Sincerely,

---

[Printed Name of Proposer Organization]

---

[Name and Title of Authorized Representative]

---

Date

**Attachment 3**  
**Draft Resulting Contract**

*IOWA HOME EFFICIENCY LOAN PROGRAM CONTRACT*

This Iowa Home Efficiency Loan Program Contract is dated \_\_\_\_\_, 2010, between the Office of Energy Independence (OEI), an agency of the State of Iowa created by Iowa Code chapter 469, and \_\_\_\_\_ (Contractor). The parties agree as follows.

**5. Purpose.**

5.1 OEI has received \_\_\_\_\_.

5.2 The parties are entering into this contract for Contractor to \_\_\_\_\_.

**6. Incorporation of documents.**

6.1 **Incorporation of bidding documents.** This contract also incorporates (1) the Iowa Home Efficiency Loan Program Request for Proposal, RFP No. \_\_\_\_ (RFP), and (2) Contractor's proposal in response to the RFP.

6.2 **Resolution of inconsistencies or conflicts in bidding documents.** If there is any inconsistency or conflict between the specific provisions of this contract, the RFP, and Contractor's response to the RFP, the parties agree that any such inconsistency or conflict will be resolved as follows: (1), by giving preference to the specific provisions of this contract; (2), by giving preference to specific provisions of the RFP; and (3) by giving preference to specific provisions of Contractor's response to the RFP. This contract's failure to refer to specific terms of the RFP or Contractor's response to the RFP does not create a conflict with this contract and does not relieve Contractor of the contractual obligations imposed by the RFP or Contractor's response to the RFP. Terms offered in Contractor's proposal that exceed the RFP's requirements do not create an inconsistency or conflict with the request for proposal or this contract. Nor can Contractor's response to the RFP impose or imply any contractual obligations on OEI.



**7. Scope of services.**

Contractor will perform the services identified in Exhibit A, Description of Project and Award Budget.

**8. Compensation.**

**8.1 Reimbursement of allowable costs.** OEI will reimburse Contractor for the allowable costs that Contractor incurs in performing the work under this contract in the amount and in manner described in Exhibit A, Description of Project and Award Budget.

**8.2 No reimbursement of unallowable costs.** OEI will not reimburse Contractor for any cost that is contrary to (1) this contract; (2) any restriction or limitation in the documents identified in paragraph 2.1; (3) 10 CFR Part 600; (4) the applicable cost principles found in OMB Circular A-21 Cost Principles for Educational Institutions, OMB Circular A-87 Cost Principles for State, Local, and Indian Tribal Governments, or OMB Circular A-122 Cost Principles for Non-Profit Organizations; or (5) any other applicable laws, rules, regulations, and policies.

**8.3 Invoices and supporting documentation.** All invoices and all required supporting documentation must comply with all applicable rules concerning payments of these claims.

**8.4 Representations.** By submitting an invoice, Contractor represents to OEI that all of the following are true:

8.4.1 the services identified in the invoice are within the scope of services described in paragraph 3, and

8.4.2 the costs are allowable, allocable, and reasonable in accordance with (1) this contract; (2) the documents identified in paragraph 2.1; (3) 10 CFR Part 600; (4) the applicable cost principles in OMB Circular A-21 Cost Principles for Educational Institutions, OMB Circular A-87 Cost Principles for State, Local, and Indian Tribal Governments, or OMB Circular A-122 Cost Principles for Non-Profit Organizations; and (5) any other applicable laws, rules, regulations, and policies.

**8.5 Payment of invoices.** OEI will review each invoice for compliance with this contract and applicable laws, rules, regulations, and policies. It will approve all or a

portion of the amount sought in the invoice and will pay the approved amount within the time required by applicable law.

**8.6 Withholding payments.** Despite anything to the contrary in this contract, OEI may withhold paying all or a portion of the invoices if Contractor has failed to comply with this contract, including any problems identified during OEI's monitoring of Contractor's performance.

**8.7 Recovery of reimbursed funds.** If OEI or any federal agency concludes that Contractor has been reimbursed for any cost that is unallowable, unallocable, or unreasonable under this contract, Contractor will repay those funds within 10 business days of receiving written notice from OEI. OEI may withhold any payment under this contract if Contractor fails to repay those funds by the deadline.

**8.8 Payment is no waiver.** By paying all or a portion of an invoice, OEI does not waive its ability to challenge any reimbursement for failing to comply with this contract at a later date.

**9. American Recovery and Reinvestment Act requirements.**

**9.1 Acknowledgement of receiving Recovery Act funds.** Contractor understands and agrees that the source of the payments under this contract, either in whole or in part, is the American Recovery and Reinvestment Act of 2009—Pub. L. 111-5—(Recovery Act). Contractor further understands and agrees that it will comply with the Recovery Act.

**9.2 Recovery Act process is evolving.** Contractor understands and agrees that the federal stimulus process is still evolving and that new requirements for Recovery Act compliance may still be forthcoming from the federal government and the State of Iowa. Accordingly, Contractor agrees that it and its subgrantees and subcontractors will comply with all Recovery Act requirements promulgated by the federal government or the State of Iowa, or both, during the contract.

**9.3 Recovery Act funds are temporary.** Contractor agrees that Recovery Act funds are temporary and that programs supported with Recovery Act funds, including this program, will not be continued with the State of Iowa financial appropriations when Recovery Act funds are expended.

**9.4 Applicable Recovery Act definitions.** Because this contract uses Recovery Act funds, the Recovery Act defines the following terms that are relevant to this contract:

9.4.1 A “prime recipient” is a non-federal entity that receives Recovery Act funds as federal awards in the form of grants, loans, or cooperative agreements directly from the federal government.

9.4.2 A “sub-recipient” is a non-federal entity that expends federal awards received from another entity to carry out a federal program but does not include an individual who is a beneficiary of such a program.

**9.5 Prime recipient and sub-recipient.** For purposes of this contract, OEI is the prime recipient and Contractor is a sub-recipient. Further, Contractor understands that it might have one or more sub-recipients when performing this contract.

**9.6 Registration requirements.** Contractor and its first-tier subgrantees and subcontractors must register and maintain their registration in the Central Contractor Registration at all times during which they have active federal awards funded with Recovery Act funds.

**9.7 Enforceability.** Contractor agrees that if it or one of its subcontractors or subgrantees fails to comply with all applicable federal or state requirements, or both, OEI may withhold or suspend, in whole or in part, any payments to Contractor under this contract, or recover misspent funds from Contractor. This provision is in addition to all other remedies available to OEI.

**9.8 Recovery Act reporting requirements.** Under Section 1512 of the Recovery Act, OEI, as the prime recipient, must submit a report to the federal government no later than 10 calendar days after the end of each calendar quarter ("Reporting Period"). This report must contain the information outlined below. Accordingly, Contractor agrees to provide the State of Iowa with the following information in a timely manner and in the format or form required by OEI:

9.8.1 The total amount of Recovery Act funds received by Contractor during the Reporting Period;

9.8.2 The amount of Recovery Act funds that were expended or obligated during the Reporting Period;

9.8.3 A detailed list of all projects or activities for which Recovery Act funds were expended or obligated, including:

- .a the name of the project or activity;
- .b a description of the project or activity;
- .c an evaluation of the completion status of the project or activity; and
- .d an estimate of the number of jobs created in the number of jobs retained by the project or activity.

9.8.4 For any subcontracts or sub-grants equal to or greater than \$25,000:

- .a The name of the entity receiving the sub-award;
- .b The amount of the sub-award;
- .c The transaction type;
- .d The North American Industry Classification System (NAICS) code or Catalog of Federal Domestic Assistance (CFDA) number;
- .e Program sources;
- .f An award title descriptive of the purpose of each funding action;
- .g The location of the entity receiving the sub-award;
- .h The primary location of the sub-award, including the city, state, Congressional District, and country;
- .i A unique identifier of the entity receiving the sub-award and the parent entity of the Contractor/Grantee, should the entity be owned by another; and
- .j The names in total compensation of the five most highly compensated officers of the company if it received: (1) 80% or more of its annual gross revenues in Federal award; and (2) \$25,000,000 or more in annual gross revenue from Federal awards.

9.8.5 For any subcontracts or sub-grants of less than \$25,000 or two individuals, the information required in subparagraph D may be reported in the aggregate and requires the certification of an authorized officer of the vendor or grantee that the information contained in the report is accurate.

9.8.6 Any other information requested by the State of the Iowa or required by state or federal law or regulation.

9.8.7 Standard data elements and federal instructions for use in complying with reporting requirements under Section 1512 of the Recovery Act were published in the Federal Register on April 1, 2009 (74 FR 14824), and once approved will be provided online at [www.FederalReporting.gov](http://www.FederalReporting.gov).

**9.9 Department of Energy’s reporting requirements.** In addition to any other reporting requirements, the Department of Energy’s Federal Reporting Checklist—DOE F 4600.2—identifies the reporting requirements for this contract. Contractor agrees that it will comply with these reporting requirements.

**9.10 OMB guidance on reporting requirements.**

9.10.1 OMB Memorandum M-09-21 dated June 22, 2009, outlines the standard data elements and federal implementation guidance for complying with the reporting requirements under section 1512 of the Recovery Act. Contractor agrees that it will comply with OMB Memorandum M-09-21 and timely provide the information required by that memorandum to OEI.

9.10.2 OMB Memorandum M-10-08 dated December 18, 2009, provides updated guidance on Data Quality, Non-Reporting Recipients, and Reporting of Job Estimates. Contractor agrees that it will comply with OMB Memorandum M-10-08 when complying with its reporting obligations.

9.10.3 Further, Contractor agrees that it will comply with any other OMB memorandums or guidances concerning reporting under the Recovery Act.

**9.11 Contractor’s failure to comply with reporting requirements.** Contractor’s failure to comply with any of the Recovery Act reporting requirements—including, without limitation, paragraphs 5.8, 5.9, and 5.10—constitutes a material breach of this contract. In addition to any other remedy, if Contractor fails to comply with the reporting requirements, OEI may withhold further payments, suspend this contract, or terminate this contract.

**9.12 Segregation of funds.** Contractor can use Recovery Act funds to supplement, not supplant, other federal funding. Contractor agrees that it will segregate obligations and expenditures of Recovery Act funds from other funds. In addition, Contractor must not co-mingle Recovery Act funds with other funds or use Recovery Act funds for a purpose other than that of making payments for costs allowable under the Recovery Act.

**9.13 Prohibition on use of Recovery Act funds.** Contractor must not use any funds made available under this contract for any casino or other gambling establishment, aquarium, zoo, golf course, swimming pools, or similar projects. In addition, Contractor must not use Recovery Act funds (a) for construction, such as construction of mass transit systems and exclusive bus lanes, for the construction or

repair of buildings and structures, (b) to purchase land, a building, or structure, or any interest therein, (c) to subsidize fares for public transportation, (d) to subsidize utility rate demonstrations or state tax credits for energy conservation or renewable energy measures, or (e) to conduct or purchase equipment to conduct research, development, or demonstration of energy efficiency or renewable techniques and technologies not commercially available.

#### **9.14 Buy American requirement.**

9.14.1 As required by Section 1605 of the Recovery Act, Contractor agrees that neither Contractor nor its subcontractors or sub-grantees will use Recovery Act funds for a project for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel, manufactured goods used in the project are produced in the United States. Contractor understands this requirement may only be waived by the applicable federal agency if the requirement is determined to be (a) inconsistent with the public interest, (b) the relevant manufactured goods are not produced in the United States in sufficient and reasonably available quantities of and of a sufficient quality, or (c) inclusion of the relevant manufactured goods produced in the United States will increase the cost of the overall project by more than 25%, as set out in Section 1605 of the Recovery Act.

9.14.2 For additional information about waivers of the Recovery Act's Buy American requirement, OEI directs Contractor's attention the Department of Energy's Guidance on the Buy American Provisions as Applied to Energy Efficiency and Renewable Energy Projects Funded by the American Recovery and Reinvestment Act of 2009 and Administered by the Office of Energy Efficiency and Renewable Energy dated December 17, 2009.

**9.15 Wage requirements.** As required by Section 1606 of the Recovery Act, Contractor agrees that all laborers and mechanics employed by contractors and subcontractors on the work funded under this contract will be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the United States Secretary of Labor under the Davis-Bacon Act, 40 U.S.C. § 3141 et sec.

**9.16 Whistleblower protection.** Contractor agrees that both it and its subcontractors and sub-grantees will comply with Section 1553 of the Recovery Act. Contractor and its subcontractors and sub-grantees must not discharge, demote, or

otherwise discriminate against any employee who discloses, in the ordinary course of the employee's duties, information the employee reasonably believes is evidence of (1) gross mismanagement of the contract or grant relating to Recovery Act funds; (2) a gross waste of Recovery Act funds; (3) a substantial or specific damage to public health or safety related to the implementation or use of Recovery Act funds; (4) the abuse of authority related to implementation or use of Recovery Act funds; or (5) a violation of law, rule, or regulation related to an agency contract (including the competition for or negotiation of a contract) or grants awarded or issued relating to Recovery Act funds. Further, Contractor agrees that it and its subcontractors and subgrantees will post notice of the rights and remedies available under Section 1553 of the Recovery Act.

**9.17 National Environmental Policy Act (NEPA) requirements.** Contractor cannot take any action using federal funds that would have an adverse affect on the environment or limit the choice of reasonable alternatives before the Department of Energy or OEI provides either a NEPA clearance or a final NEPA decision about the project. If Contractor proceeds with activities that are not authorized for federal funding of the Department of Energy Contracting Office before the final NEPA decision, Contractor risks not receiving federal funding and those costs may not be recognized as allowable cost. If the contract includes construction activities, Contractor must submit an environmental evaluation report or evaluation notification form regarding NEPA issues before the Department of Energy or OEI initiating the NEPA process.

**9.18 National Historic Preservation Act.** Before expending any Recovery Act funds to alter any structure or site that are listed or eligible for listing in the National Register of Historic Places, Contractor must first comply with Section 106 of the National Historic Preservation Act (NHPA), consistent with the Department of Energy's 2009 letter of delegation of authority about the NHPA.

**9.19 False Claims Act.** Contractor agrees that it will promptly refer to an appropriate Federal Inspector General any credible evidence that a principal, employee, agent, sub-grantee, subcontractor, or other person has committed a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving those funds.

**9.20 Non-discrimination.** Contractor must comply with Title VII of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title IX of the

Education Amendments of 1972, the Age Discrimination Act of 1975, and other civil rights laws applicable to recipients of federal financial assistance.

**9.21 Job posting requirements.** Section 1512 of the Recovery Act requires the State of Iowa to report on the jobs created and retained as a result of the stimulus funds. Contractor agrees to post job opportunities created in connection with the projects funded in whole or in part with Recovery Act funds on the State of Iowa job opportunity website and the federal Recovery Act website, if required.

**9.22 Inspection of records.** Contractor agrees that it will permit the United States Comptroller General or its representative or the appropriate inspector general appointed under Section 3 or 8G of the Inspector General Act of 1978 or its representative (1) to examine any records that directly pertain to, and involve transactions relating to, this contract; and (2) to interview any officer or employee of Contractor or any of its subcontractors or sub-grantees regarding the projects funded with Recovery Act funds.

**9.23 Lobbying restrictions.** By accepting funds under this contract, Contractor agrees that none of the funds under this contract will be expended, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before Congress, other than to communicate to Members of Congress as described in 18 U.S.C. § 1913. This restriction is in addition to those prescribed elsewhere in statute and regulation.

**9.24 Suspension and debarment.** Contractor agrees that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction nor from federal financial or non-financial assistance, nor are any of the participants involved in the execution of this contract suspended, debarred, or voluntarily excluded by any federal department or agency in accordance with Executive Order 12549 (Debarment and Suspension) and 44 CFR Part 17, or are on the disbarred vendors list at [www.epls.gov](http://www.epls.gov). Further, Contractor will notify OEI by certified mail if Contractor or any of its agents become debarred, suspended, or voluntarily excluding during the term of this contract.

**9.25 Flow-down requirements.** Contractor must include the terms of this contract in any subaward or subcontract.

## **10. Monitoring activities.**



10.1 OEI has the right to monitor Contractor's performance of this contract—including the performance of Contractor's subcontractors, subgrantees, or sub-recipients—to verify that Contractor is complying with this contract.

10.2 Monitoring activities include, but are not limited to:

10.2.1 a 100% inspection;

10.2.2 a random sampling;

10.2.3 a periodic inspection;

10.2.4 inspecting any document related to Contractor's performance of this contract;

10.2.5 auditing or reviewing any documents related in any way to any payments under this contract;

10.2.6 inspecting the work at any time;

10.2.7 allowing its consultants, agents, or experts to examine or evaluate completed work, work in progress, payments, or any other matter related in any way to Contractor's performance of this contract;

10.2.8 examining the books, ledgers, documents, papers, and records related in any way to this contract; and

10.2.9 attending any meetings where Contractor discusses matters related to the performance of this contract.

11. **Term.** The term of this contract is from \_\_\_\_\_, 2010, through \_\_\_\_\_, 20\_\_\_\_, unless the contract is terminated earlier in accordance with this contract.

12. **Termination.**

12.1 **Immediate termination by OEI.** OEI may immediately terminate this contract when one or more of the following events occurs:

12.1.1 Contractor fails to comply with any provision of this contract that provides for immediate termination; or

12.1.2 OEI determines that Contractor made a statement, representation, warranty, or certification that is materially false, deceptive, incorrect, or incomplete.

**12.2 Termination on notice by OEI.** Following 30 days' written notice, OEI may terminate this contract in whole or in part for convenience without the payment of any penalty or incurring any further obligation to the non-terminating party. Following termination upon notice, OEI will pay Contractor, upon submission of invoices and proper proof of claim, for services provided under this contract up to and including the date of termination.

**12.3 Termination for cause by OEI.** OEI may declare Contractor to be in default of its obligations under this contract when any of the following events occurs:

12.3.1 Contractor fails to observe and perform any covenant, condition or obligation created by the contract;

12.3.2 Contractor fails to make substantial and timely progress toward performance of the contract;

12.3.3 Contractor's work product and services fail to conform with the requirements of this contract; or

12.3.4 Contractor's work product or services infringe on any patent, trademark, copyright, trade dress or any other intellectual property right.

**12.4 Notice of default.** If there is a default event that Contractor can cure, OEI must provide written notice to Contractor requesting that the breach or noncompliance be immediately remedied. If the breach or noncompliance continues 10 days beyond the date of the written notice, OEI may:

12.4.1 immediately terminate the contract without additional written notice; or

12.4.2 enforce the terms and conditions of the contract and seek any legal or equitable remedies.

In either event, OEI may seek damages due to the breach or failure to comply with the terms of the contract.

**12.5 Termination by OEI due to lack of funds or change in law.** Despite anything in this contract to the contrary, and subject to the limitations, conditions, and procedures set forth below, OEI may terminate this contract without penalty by giving 60 days' written notice to Contractor if any of the following occurs:

12.5.1 the legislature or governor fails to appropriate funds sufficient to allow OEI to operate as required and to fulfill its obligations under this contract;

12.5.2 if funds are de-appropriated or not allocated;

12.5.3 if the federal government reduces or eliminates the federal grant;

12.5.4 if OEI's authorization to operate is withdrawn or there a material alteration in the programs administered by OEI;

12.5.5 if OEI's duties are substantially modified.

**12.6 Contractor's remedies if OEI terminates the contract due to lack of funds or change in law.** If OEI terminates this contract due to lack of funds or change in law as provided above, Contractor's exclusive, sole, and complete remedy is the payment for services completed prior to and including the date of termination.

**12.7 Contractor's duties on termination.** When Contractor receives OEI's notice of termination for any reason allowed under this contract, Contractor must:

12.7.1 cease all work under this contract except any work that OEI directs Contractor to perform;

12.7.2 comply with OEI's instructions for the timely transfer of any active files and related work product; and

12.7.3 cooperate in good faith with OEI during the transition period between the notification of termination and the substitution of any replacement contractor.

**12.8 Set off.** Should OEI obtain a money judgment against Contractor because of a default under this contract, Contractor consents to such judgment being set off from

moneys owed Contractor by the State of Iowa or any other agency of the State of Iowa under any other contract.

### **13. Indemnification.**

**13.1 Contractor's indemnification of OEI.** Contractor must indemnify the State of Iowa and OEI from any and all liabilities, damages, settlements, judgments, costs and expenses, related to or arising from:

13.1.1 Contractor's violation of this contract;

13.1.2 Contractor's negligent acts or omissions;

13.1.3 Contractor's performance or attempted performance of this contract;

13.1.4 Contractor's failure to comply with all local, state and federal laws and regulations; or

13.1.5 Contractor's failure to make all reports, payments and withholdings required by Federal and State law with respect to social security, employee income and other taxes, fees or costs required by Contractor to conduct business in the State of Iowa.

**13.2 Survives termination.** All indemnification obligations imposed by this section survive the termination of this contract.

### **14. Insurance.**

**14.1 Contractor's insurance requirements.** Contractor must maintain in effect, with insurance companies of recognized responsibility, at its expense, insurance covering its work of the type and in amounts required by this contract. Contractor's insurance must, among other things, insure against any loss or damage resulting from Contractor's performance of this contract. These insurance policies must remain in full force and effect for the entire life of this contract and must not be canceled except after 30 days' written notice to OEI.

**14.2 Amount of insurance required.** Unless otherwise requested by OEI, Contractor must, at its sole cost, cause to be issued and maintained during the entire term of this contract not less than the insurance coverages identified below. Each

insurance policy must name the State of Iowa and OEI as additional insureds or loss payees, as applicable:

TYPE OF INSURANCE	LIMIT	AMOUNT
General Liability (including contractual liability) written on an occurrence basis	Combined Single Limit	\$1Million
	Umbrella coverage	\$1 Million
Automobile Liability (including any auto, hired autos, and non-owned autos)	Combined Single Limit	\$1 Million
	Umbrella	\$1 Million
Workers Compensation and Employer Liability	As required by Iowa law	As required by Iowa law

**14.3 Claims provisions.** All insurance policies required by this contract must provide coverage for all claims arising from activities occurring during the term of the policy regardless of the date the claim is filed or expiration of the policy.

**14.4 Certificates of coverage.** Contractor must submit the certificates of insurance described above to OEI for approval within 30 days after the contract's effective date. The certificates must state that the insurer cannot cancel the insurance without giving OEI at least 30 days prior written notice.

**14.5 No limitation of liability.** OEI's acceptance of the insurance certificates does not relieve Contractor of any obligation imposed by this contract. Only companies authorized to transact business in the State of Iowa may issue the insurance policies and certificates required by this contract. Contractor is responsible to maintain the required insurance policies current and without lapse in coverage during the term of this contract.

## **15. Confidential information.**

**15.1 Access to confidential information.** When performing its responsibilities under this contract, Contractor and its employees, agents, and subcontractors may have access to confidential information. Contractor must designate one individual who will be responsible for all confidential information collected, used, or disseminated by Contractor when performing this contract. Contractor must also

supervise and train its employees, agents, and subcontractors to ensure compliance with confidentiality requirements.

**15.2 No dissemination of confidential information.** Contractor must not disseminate any confidential information collected, maintained, or used when performing its obligations under this contract except as authorized by law, this contract, or OEI, either during the term of this contract or thereafter. Contractor must promptly return to OEI any data collected, maintained, created, provided, or used in the course of the performance of the contract, in whatever form it is maintained, at OEI's request.

**15.3 Subpoena.** If a subpoena or other legal process is served upon Contractor for records containing confidential information, Contractor must promptly notify OEI and cooperate with OEI in any lawful effort to protect the confidential information.

**15.4 Reporting of unauthorized disclosure.** Contractor must immediately report to OEI any unauthorized disclosure of confidential information.

**15.5 Survives termination.** Contractor's obligation to maintain the confidentiality of confidential information survives termination of this contract.

**16. Project management and reporting.** At the time of execution of this contract, each party will designate, in writing, a project manager to serve until the expiration of this contract or the designation of a substitute project manager. During the term of this contract, each project manager will be available to meet, as otherwise mutually agreed, and as required to plan the services being provided under this contract.

**17. Fiscal procedures.**

**17.1 Contractor's accounting system.** Contractor represents that its accounting system is adequate to comply with this contract.

**17.2 Audit exceptions.** If an authorized federal or state audit takes exception to the services provided under this contract for which federal or state reimbursement has been paid, Contractor must refund the reimbursement if the audit exception is due to the Contractor's error. If the audit exception is due solely to the Department's error, the Department is responsible for the reimbursement. If the audit exception is a joint responsibility, the parties will work together to achieve an equitable resolution.

## **18. Compliance with laws.**

**18.1 In general.** Contractor must comply with all applicable federal, state, and local laws, rules, ordinances, regulations, and orders when performing services under this contract. Contractor represents that it has complied with all federal, state, and local laws regarding any business permits and licenses that may be required to carry out the work to be performed under this contract.

## **18.2 Compliance with anti-discrimination laws.**

**18.2.1** Contractor must comply with all laws applicable to the prevention of discrimination in employment.

**18.2.2** In addition, Contractor, as a sub-recipient of a federal grant, must comply with all laws prohibiting discrimination on the basis of race, color, national origin, age, religion, sex, or disability in the delivery of services or benefits.

**18.3** Contractor agrees to comply with the organizational audit requirements of OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations.

**19. Certification.** By signing this contract, Contractor certifies that it will comply with all applicable federal and state laws including, without limitation, the Recovery Act. This certification is a material representation of act upon which OEI is relying when entering into this contract. A false certification constitutes a material breach of this contract.

## **20. Contract administration.**

**20.1 Amendments.** No supplement, modification, or amendment of this contract will be binding unless it is in writing and signed by both parties.

**20.2 Third parties.** This contract has no third party beneficiaries; it benefits only OEI and Contractor.

**20.3 Assignment and delegation.** No party may assign, transfer, or convey in whole or in part this contract without the prior written consent of the other party.

For purposes of this clause, a transfer of a controlling interest in Contractor constitutes an assignment.

**20.4 Choice of law and forum.** Iowa law governs this contract without regard to its choice-of-law provisions. Any litigation arising out of or related to this contract must be brought in Des Moines, Iowa, Polk County District Court.

**20.5 Representations.** Each party represents to the other that:

20.5.1 It has the right, power, and authority to enter into and perform its obligations under this contract.

20.5.2 It has taken all requisite action (corporate, statutory, or otherwise) to approve the execution, delivery, and performance of this contract.

20.5.3 This contract constitutes a legal, valid, and binding obligation on itself in accordance with its terms.

**20.6 Integration.** This contract constitutes the entire agreement between the parties and none of the parties are relying on any representations that may have been made that are not included in this contract.

**20.7 Not a joint venture.** Nothing in this contract creates the relationship of a partnership, joint venture, or other association of any kind, or agent and principal relationship between the parties. Each party is an independent contractor to the other contracting for services and acting toward the mutual benefits derived from this contract. No party, unless otherwise specifically authorized in this contract, has the authority to enter into any contract or create any obligation or liability on behalf of, in the name of, or be binding on another party to this contract.

**20.8 Obligations beyond the term of this contract.** This contract will remain in full force and effect to the end of the specified term or until terminated or canceled under this contract. All obligations of the parties incurred or existing under this contract as of the expiration, termination, or cancellation will survive the termination or cancellation of this contract.

**20.9 Supersedes former agreements.** This contract supersedes all prior contracts between OEI and Contractor for the services provided under this contract.



**20.10 Waiver.** No waiver of any term of this contract constitutes a waiver of any other provision, whether similar or dissimilar. No waiver of any term constitutes a continuing waiver of that term. No waiver is binding unless it signed in writing by the waiving party.

**20.11 Notices.** Whenever this contract requires a party to send notice or other communication to the other party, the notice must be in writing and must be delivered personally or sent by certified or registered mail, or by overnight courier, postage prepaid, to the following addresses:

If to OEI:                                      Office of Energy Independence  
    Attention:  
    Wallace State Office Building, Third Floor  
    Des Moines, Iowa 50319

If to Contractor:

A notice is effective either (1) on the day of personal delivery, or (2) two days after the date of mailing, whichever is earlier.

**20.12 Severability.** If any term of this contract is for any reason invalid or unenforceable, the rest of the contract remains fully valid and enforceable.

**20.13 Cumulative rights.** The various rights, powers, options, elections, and remedies of any party in this contract are cumulative and not one of them is exclusive of the others or exclusive of any rights, remedies, or priorities allowed either party to pursue any other equitable or legal remedy to which either party may be entitled as long as any default remains unremedied, unsatisfied, or undischarged.

**20.14 Time is of the essence.** Time is of the essence with respect to the performance of the terms of this contract.

**20.15 Successors in interest.** This contract binds and inures to the benefit of all parties and their successors, assigns, and legal representatives.

**20.16 Record retention and access.** Contractor must maintain books, records, and documents that sufficiently and properly document and calculate all charges billed to OEI throughout the term of this contract for a period of at least 5 years following the date of final payment or completion of any required audit, whichever is later. Contractor must permit the Auditor of the State of Iowa or any authorized

representative of the State of Iowa and where federal funds are involved, the Comptroller General of the United States or any other authorized representative of the United States government, to access and examine, audit, excerpt and transcribe any directly pertinent books, documents, papers, electronic or optically stored and created records or other records of Contractor relating to orders, invoices, or payments or any other documentation or materials pertaining to this contract. Contractor must not impose a charge for audit or examination of Contractor's books and records.

The parties are signing this contract on the date stated in the introductory paragraph.

OFFICE OF ENERGY INDEPENDENCE

By: \_\_\_\_\_  
Roya Stanley, Director

CONTRACTOR

By: \_\_\_\_\_  
\_\_\_\_\_

*EXHIBIT A*

*DESCRIPTION OF THE PROJECT AND AWARD BUDGET*

*TO IOWA HOME EFFICIENCY LOAN PROGRAM CONTRACT*