

**State of Alaska, Department of Health and Social Services
Division of Public Assistance
Grants & Contracts Support Team
P.O. Box 110650, Juneau, AK 99811-0650**

**LIHEAP EMERGENCY HEATING SYSTEM REPLACEMENT PROGRAM
PROVIDER AGREEMENT**

_____, (Provider) enters into a Provider Agreement with the State of Alaska, Department of Health & Social Services (DHSS) for the purpose of providing heating system replacement services to Alaskan households with gross monthly income below 150% of the federal poverty income guidelines whose heating equipment is inoperable or unsafe for the State of Alaska's LIHEAP Program. By entering into this Provider Agreement, the Provider agrees to the following, including all applicable provisions of Appendices A,C,D and E and Attachments 1 and 2.

APPENDICES:

- A. Governing Statutes and Regulations appended to this agreement by reference:
[7 AAC 81 Grant Services for Individuals](#)
[45 CFR Part 96 Public Welfare, Block Grants](#)
- B. The Provider's current LIHEAP agreement is also appended.
- C. Privacy & Security Procedures for Providers
- D. Resolution for Alaska Native Entities
- E-1. Federal Assurances & Certifications

ATTACHMENTS:

- 1. Client Log Form
- 2. Invoice/Billing Form

I. PROVIDER ELIGIBILITY

Providers are restricted to Alaska Native Organizations that currently administer a Low Income Home Energy Assistance Program (LIHEAP) approved by the Administration for Children and Families, U.S. Department of Human and Social Services. Said providers must also have an in-house weatherization unit or work directly with an established subcontractor in their area who currently is licensed and/or certified to perform heating system repairs and replacements.

Providers must ensure that there is no conflict of interest between the party that determines what work needs to be done and the party replacing the heating system. The Provider agrees to the provisions of 7 AAC 81, Grant Services for Individuals (Appendix A), as well as all other applicable state and federal law; and declares and represents that it meets the eligibility requirements for a

Service Provider for this Agreement. With the signed Agreement, the Provider must submit the following documentation:

- A. Proof of a Federal Tax ID Number;
- B. A current State of Alaska Business License;
- C. Alaska Native entities¹ entering into a Provider Agreement with DHSS agree to provide a waiver of immunity from suit for claims arising out of activities of the Provider related to this Agreement (Appendix D);
- D. The Provider will ensure that it and any of its subcontractors providing services to be reimbursed through this Agreement have obtained and maintain current credentials for service personnel, such as copies of valid and current certifications or licences necessary to the performance of those services.

By submission of the signed Agreement, the Provider further agrees that they will comply with the following:

- A. The provisions of Appendix C, Privacy & Security Procedures.
- B. Facilities utilized for delivery of services meet current fire code, safety and ADA standards and are located where clients of the program services have reasonable and safe access.
- C. During the effective period of this Agreement, the provider agrees to keep current any and all licenses, certifications and credentials required of the provider agency, staff and facility to qualify for providing services to DHSS clients through this Agreement, and to keep current the necessary documentation on file with DHSS to demonstrate compliance.

It is the Provider's responsibility to understand and comply with all applicable provisions of the Little Davis Bacon Act. Providers that are organized as for profit organizations, or who are political subdivisions sub-contracting weatherization work, may be subject to the Little Davis Bacon Act. Non-profit organizations, or political subdivisions who perform the work in-house (force account), working on private homes, are not subject to the provisions of the Little Davis Bacon Act.

II. DESCRIPTION OF SERVICES

Providers will replace inoperable or unsafe heating equipment in the homes of eligible persons living in the Provider's region. Provider may work with licensed subcontractors to perform this service. The State will not pay for cleaning, tuning, tests, or assessments of need under this agreement. This agreement simply provides a funding stream to either exclusively pay for the replacement of inoperable or unsafe heating equipment or to be used with other leveraged funds to cover the costs of the heating equipment replacement. Billable costs are limited to the cost of the equipment, shipping, and installation of said heating system replacements. Billable costs are not to exceed \$15,000 for replacement of a boiler system, or \$6,000 for a Monitor or Toyo (or similar type) laser heater, or \$4,500 for a wood stove designed to provide home heating.

The Provider is responsible for quality control for the purchase and installation of the equipment, and for ensuring the heating system is safe and fully operational, including all such work performed by the Provider's subcontractors. The Provider will also ensure that the materials selected are

¹ "Alaska Native entity" means an Alaska Native organization that the Secretary of the Interior acknowledges to exist as an Indian tribe through the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 479a.

designed for use in an arctic climate and appropriate for the specific application. The installation of such equipment must also be in such a manner as to ensure longevity of the unit over the projected life of the unit, within reason. A minimum one year warranty should be offered to all heating equipment replacement clients on any work performed under this Agreement. Provider should make every effort to recapture any costs that may be covered by manufacturers, subcontractors, or others who may offer warranty provisions.

III. CLIENT ELIGIBILITY

Heating system replacements are limited to:

- A. Households with income at or below 150% of the federal poverty income guidelines;
- B. Homes where the present heating equipment is inoperable or unsafe, and cannot be repaired for a cost that is less than that of a new heating system;
- C. Households that pay for their own heat and equipment maintenance; and
- D. Recipients must qualify as eligible per Provider's LIHEAP Memorandum of Agreement with the State of Alaska.

IV. BILLING

Endorsement of a DHSS payment warrant constitutes certification that the claim for which the warrant was issued was true and accurate, unless written notice of an error is sent by the Provider to DHSS within 30 days after the date that the warrant is cashed.

Funds disbursed to the Provider which are subsequently determined to have been disbursed for costs found to be ineligible by the State, shall be subtracted from the next payment to the Provider or, if the Provider has received final payment under the Agreement, the Provider shall repay those disallowed costs to the State within 30 days of receipt of notice from the State of the amount of the disallowed costs.

Clients will not be charged any sliding-scale fee, deductible, co-pay or administrative fee for equipment or services provided under this Agreement.

Payment requests are due by the 15th of each month, or the first business day following the 15th, for the previous month being reported, along with the required documentation and backup as outlined in this Provider Agreement.

Providers will submit a summary billing to DHSS, using Appendix G – Monthly Billing Form for reimbursement of allowable costs. Billing for the heating equipment and services provided to a client shall include copies of itemized receipts describing the equipment, and services provided and any other applicable information necessary to substantiate expenditures. Billable costs include the cost of the equipment, shipping and installation of said equipment.

Providers may submit claims in paper form, or electronically. Refer to Section VI of this document for explicit instructions about the submission of confidential or other sensitive information.

Except when good cause for delay is shown, DHSS will not pay for services unless the Provider submits a claim within 30 days of the date the service was provided.

The State may withhold payment to the Provider if, in the State's determination, the Provider has failed to comply with the terms of this Provider Agreement, or if the Provider is determined to be indebted to the United States of America or the State of Alaska.

V. SUBCONTRACTS

Subcontracts will be allowed under the terms of this Provider Agreement according to the provisions of 7 AAC 81.090.

VI. CONFIDENTIALITY AND SECURITY OF CLIENT INFORMATION

The Provider will ensure compliance with the Health Insurance Portability & Accountability Act of 1996 (HIPAA), the Health Information Technology for Economical and Clinical Health Act of 2009 (HITECH), and 45 C.F.R. 160 and 164, if applicable, and other federal and state requirements for the privacy and security of protected health information the Provider receives, maintains, or transmits, whether in electronic or paper format. Client information is confidential and cannot be released without the HIPAA-compliant written authorization of the client and DHSS, except as permitted by other state or federal law.

By entering into this Agreement the Provider acknowledges and agrees to comply with the Privacy and Security Procedures for Providers as set forth in Appendix C to this Agreement.

To protect the confidentiality of personally identifiable client information, reported electronically, the Provider must first establish the mechanism for a secure file transfer. DHSS has adopted a platform called Direct Secure Messaging(DSM), which meets HIPAA requirements for data encryption. In order to securely transfer files in a HIPAA-compliant manner, the Provider must use DSM to transfer files containing Electronically Protected Health Information (EPHI) and other sensitive data. Or, the Provider may submit hard copy information, in a sealed envelope, stamped "confidential", inside another envelope. Hard copy information must be sent by certified, registered or express mail, or by courier service, with a requested return receipt to verify that the information was received by the appropriate individual or office. Contact the Program Manager identified on the signature page of this Agreement to arrange for secure transfer of protected client information required for Provider billing.

VII. REPORTING AND EVALUATION

The Provider agrees to comply with 7 AAC 81.120, Confidentiality and 7 AAC 81.150, Reports, and other applicable state or federal law regarding the submission of information, including the provisions of Section VI of this Agreement. The Provider agrees to submit any reporting information required under this Agreement and to make available information deemed necessary by DHSS to evaluate the efficacy of service delivery or compliance with applicable state or federal statutes or regulations.

The Provider agrees to provide state officials and their representatives access to facilities, systems, books and records, for the purpose of monitoring compliance with this Agreement and evaluating services provided under this Agreement.

On-site Quality Assurance Reviews may be conducted by DHSS staff to ensure compliance with service protocols. The Provider will ensure that DHSS staff has access to program files for the purposes of follow-up, quality assurance monitoring and fiscal administration of the program.

VIII. RECORD RETENTION

The Provider will retain financial, administrative, and confidential client records in accordance with 7 AAC 81.180 and with Appendix C to this Agreement. Upon request, the Provider agrees to provide copies of the Provider's records created under this Agreement to the Department of Health and Social Services, under the health oversight agency exception of HIPAA. The Provider will seek approval and instruction from DHSS before destroying those records in a manner approved by DHSS. In the event a Provider organization or business closes or ceases to exist as a Provider, the Provider must notify DHSS in a manner in compliance with 7 AAC 78.185 and Appendix C to this Agreement.

IX. ADMINISTRATIVE POLICIES

- A. The Provider must have established written administrative policies and apply these policies consistently in the administration of the Provider Agreement without regard to the source of the money used for the purposes to which the policies relate. These policies include: employee salaries, and overtime, employee leave, employee relocation costs, use of consultants and consultant fees, training, criminal background checks, if necessary for the protection of vulnerable or dependent recipients of services, and conflicts of interest, as well as the following:
1. Compliance with OSHA regulations requiring protection of employees from blood borne pathogens and that the Alaska Department of Labor must be contacted directly with any questions;
 2. Compliance with AS 47.05.300-390 and 7 AAC 10.900-990. Compliance includes ensuring that each individual associated with the provider in a manner described under 7 AAC 10.900(b) has a valid criminal history check from the Department of Health and Social Services, Division of Public Health, Background Check Program ("BCP") before employment or other service unless a provisional valid criminal history check has been granted under 7 AAC 10.920 or a variance has been granted under 7 AAC 10.935. For specific information about how to apply for and receive a valid criminal history check please visit <http://www.hss.state.ak.us/dhcs/CL/bgcheck/default.htm> or call (907) 334-4475 or (888) 362-4228 (intra-state toll free).;
 3. Compliance with AS 47.17, Child Protection, and AS 47.24.010, Reports of Harm, including notification to employees of their responsibilities under those sections to report harm to children and vulnerable adults;;
 4. If providing residential and/or critical care services to clients of DHSS, the Provider shall have an emergency response and recovery plan, providing for safe evacuation, housing

and continuing services in the event of flood, fire, earthquake, severe weather, prolonged loss of utilities, or other emergency that presents a threat to the health, life or safety of clients in their care.

- B. The Provider agrees to maintain appropriate levels of insurance necessary to the responsible delivery of services under this Agreement, which will include items 1 and 2 below, and may include all the following that apply to the circumstances of the services provided.
1. Worker's Compensation Insurance for all staff employed in the provision of services under this Agreement, as required by AS 23.30.045. The policy must waive subrogation against the State.
 2. Commercial General Liability Insurance - covering all business premises and operations used by the provider in the performance of services under this Agreement with minimum coverage limits of \$300,000 combined single limit per occurrence.
 3. Commercial General Automobile Liability Insurance - covering all vehicles used by the provider in the performance of services under this Agreement with minimum coverage limits of \$300,000 combined single limit per occurrence.
 4. Professional Liability Insurance - covering all errors, omissions, or negligent acts in the performance of professional services under this Agreement. This insurance is required for all Providers of clinical or residential services, or for any other Provider for whom a mistake in judgment, information, or procedures may affect the welfare of clients served under the Provider Agreement.

X. EQUAL EMPLOYMENT OPPORTUNITY

The Provider shall adhere to Alaska State Statutes regarding equal employment opportunities for all persons without regard to race, religion, color, national origin, age, physical or mental disability, gender or any other condition or status described in AS 18.80.220(a)(1) and 7 AAC 81.100. Notice to this effect must be conspicuously posted and made available to employees or applicants for employment at each location that services are provided under this Provider Agreement; and sent to each labor union with which the provider has a collective bargaining agreement. The Provider must include the requirements for equal opportunity employment for contracts and subcontracts paid in whole or in part with funds earned through this Agreement. Further, the Provider shall comply with federal and state statutes and regulations relating to the prevention of discriminatory employment practices.

XI. CIVIL RIGHTS

The Provider shall comply with the requirements of 7 AAC 81.110 and all other applicable state or federal laws preventing discrimination, including the following federal statutes:

- A. The Civil Rights Act of 1964, (42 U.S.C. 2000d);
- B. Drug Free Workplace Act of 1988, (41 U.S.C. 701-707);
- C. Americans with Disabilities Act of 1990, 41 U.S.C.12101-12213).

The Provider will establish procedures for processing complaints alleging discrimination on the basis of race, religion, national origin, age, gender, physical or mental disability or other status or condition described in AS 18.80.220(a)(1) and 7 AAC 81.110(b).

In compliance with 7 AAC 81.110(c), the Provider may not exclude an eligible individual from receiving services, but with concurrence from DHSS, may offer alternative services to an individual if the health or safety of staff or other individuals may be endangered by inclusion of that individual.

XII. ACCOUNTING AND AUDIT REQUIREMENTS

The Provider shall maintain the financial records and accounts for the Provider Agreement using Generally Accepted Accounting Principles (GAAP) and the provision of the Sarbanes-Oxley Act of 2002. (SOX) There must be a clear delineation of duties that prohibit the person who makes the eligibility determination from the person requesting the payment.

DHSS may conduct an audit of a provider's operations at any time the department determines that an audit is needed. The auditor may be a representative of DHSS; or a representative of the federal or municipal government, if the Agreement is provided in part by the federal or municipal government; or an independent certified public accountant. The Provider will afford an auditor representing DHSS or other agency funding the agreement, reasonable access to the Provider's books, documents, papers, and records if requested. Audits must be conducted in accordance with the requirements of 7 AAC 81.160; including the requirement for a Provider to refund money paid on a questioned cost or other audit exception, if they fail to furnish DHSS with a response that adequately justifies a discovery of questioned costs or other audit exceptions.

XIII. LIMITATION OF APPROPRIATIONS

DHSS is funding this heating system replacement program with federal leveraging funds, which are awarded on an annual basis. In FY13, there is a program maximum funding of \$300,000 available for these services. During each state fiscal year, DHSS may authorize payment of costs under a Provider Agreement only to the extent of money allocated to that fiscal year. Because there is a fixed amount of funding on an annual basis, it may at times be necessary for DHSS to prioritize the client population served under this agreement. Limitations may include but are not limited to a moratorium on types of services, or a moratorium by geographic region served, or a restriction of services to clients with defined needs. The decision to limit billable services shall be based solely on available funding.

It is the responsibility of the Provider to coordinate with the DHSS Heating Assistance Program Coordinator to ensure continuing reimbursement is available prior to approving replacement of heating equipment. The Provider must contact the Program Coordinator for an approval number before proceeding with the work. By utilizing this procedure, The Program Coordinator can be sure commitments do not exceed available funding. The Provider is also responsible to work with the Heating Assistance Program Coordinator ensure that the annual estimated funding availability is updated each fiscal year.

XIV. INDEMNIFICATION AND HOLD HARMLESS OBLIGATION

The Provider shall indemnify, hold harmless, and defend DHSS from and against any claim of, or liability for error, omission, or negligent or intentional act of the Provider under this Agreement. The Provider shall not be required to indemnify DHSS for a claim of, or liability for, the independent negligence of DHSS. If there is a claim of, or liability for, the joint negligent error or omission of the Provider and the independent negligence of DHSS, fault shall be apportioned on a comparative fault basis.

“Provider” and “DHSS,” as used within this section, include the employees, agents, or Providers who are directly responsible, respectively, to each. The term “independent negligence” is negligence other than in DHSS’s selection, administration, monitoring, or controlling of the Provider and in approving or accepting the Provider’s work.

XV. AMENDMENT

The Provider acknowledges that state and federal laws relating to information privacy and security, protection against discriminatory practices, and other provisions included in this agreement may be evolving and that further amendment to this Agreement may be necessary to insure compliance with applicable law. Upon receipt of notification from DHSS that change in law affecting this Agreement has occurred, the Provider will promptly agree to enter into negotiations with DHSS to amend this Agreement to ensure compliance with those changes.

XVI. TERMINATION OF AGREEMENT AND APPEALS

The Provider agrees to notify DHSS immediately if it is no longer eligible to provide services based on applicable Provider eligibility requirements set out in Section I of this Agreement. Notification of non-eligibility will result in automatic termination of this Agreement. Failure to comply with the terms of this Agreement and/or standards outlined in the Agreement and its appendices may result in non-payment and automatic termination of the Agreement by DHSS.

A Provider may appeal the decision to terminate a Provider Agreement under 7 AAC 81.200. All appeals will be conducted in accordance with Section 7AAC 81.200-210 of the Alaska Administrative Code.

Except as noted above, DHSS may terminate this Agreement with 30 days notice. A Provider may also terminate the Agreement with 30 days notice, but must provide assistance in making arrangements for safe and orderly transfer of clients and information to other Providers, as directed by DHSS.

This Agreement remains in force until the Provider or DHSS terminates the Agreement or a material term of the Agreement is changed.

PROVIDER CERTIFICATION:

I certify that I am authorized to negotiate, execute and administer this agreement on behalf of the Provider agency named in this agreement, and hereby consent to the terms and conditions of this agreement, and its appendices and attachments.

PROVIDER

DEPT. OF HEALTH & SOCIAL SERVICES

Signature of Authorized Provider Representative & Date

Signature of DHSS Representative & Date

Printed Name Provider Representative & Title

Darla Madden, G&CST Chief Officer
DHSS Representative & Title

Provider Contact & Mailing Address

DHSS Contacts & Mailing Addresses

PROGRAM CONTACT

Susan Marshall, Heating Assistance Coordinator
Division of Public Assistance
400 Willoughby, Suite 301
Juneau, AK 99801
Ph: 907-465-3099; Fax: 907-465-3319
Susan.Marshall@alaska.gov

Provider Phone Number/ Fax Number

ADMINISTRATIVE CONTACT

Stephen Bower, Grant Administrator
Grants & Contracts Support Team
PO Box 110650
Juneau, AK 99811-0650
Ph. 907-465-5424; Fax 907- 465-8678
Stephen.Bower@alaska.gov

Provider Email Address

Provider's Federal Tax ID Number

Providers must identify the business entity type under which they are legally eligible to provide service and intending to enter into this Provider Agreement.

Check Entity Type:

- Private For-profit Business, licensed to do business in the State of Alaska
- Non Profit Organization Incorporated in the State of Alaska, or tax exempt under 26 U.S.C. 501(c)(3)
- Alaska Native Entity, as defined in 7 AAC 78.950(1) All applicants under this provision must submit with their signed Agreement, a Waiver of Sovereign Immunity, using the form provided as Appendix D to this Provider Agreement.
- Political Subdivision of the State (City, Borough or REAA)