

**Form 107
Sample Audit Contract**

THIS AGREEMENT, entered into this _____ (*Date*), by and between the _____ (*City/County*) of _____, represented by _____ (*Mayor/County Judge*) hereinafter referred to as "city/county" and the Certified Public Accountancy (CPA) firm of _____ represented herein by _____, hereinafter referred to as "Auditor."

NOW THEREFORE, both parties do mutually agree as follows:

A. SCOPE OF SERVICES

1. The Auditor will conduct an audit of the (*City/County/Department*) of _____ which will include ACEDP Grant(s) No. _____ and the following sources of federal funds: _____.

2. The independent financial and compliance audit will be conducted in accordance with the following audit requirements:
 - Generally Accepted Governmental Auditing Standards (GAGAS) for Audits of Governmental Organizations, Program, Activities, and Functions, a.k.a., "Yellow Book" standards
 - OMB Super Circular (2 CFR 200 Subpart F Audits)
 - Generally Accepted Accounting Principles and Generally Accepted Auditing Standards promulgated by the American Institute of Certified Public Accountants
 - The Audit will cover all activity (according to the audit type required) of the auditable entity for the fiscal year beginning _____ (*Date*) and ending _____ (*Date*).

B. TIME OF SERVICES

The auditor will begin the audit upon receipt of the Notice to Proceed and will submit three (3) final reports to the grantee within thirty (30) days of audit completion. If, through no fault of the auditor, necessary information is not made available, the time limitations shall be extended with the approval of the Arkansas Economic Development Commission.

C. COMPENSATION

The (city/county) will pay the auditor a fee not to exceed \$ _____ for the audit reports.

D. TERMS AND CONDITIONS

This Agreement is subject to the following TERMS AND CONDITIONS:

1. Termination of Contract for Cause

If, for any cause, the auditor shall fail to fulfill in a timely and proper manner his obligations under this contract, or if the auditor shall violate any of the covenants, agreements, or stipulations of this contract, the city/county shall thereupon have the right to terminate this contract by giving written notice to the auditor of such termination and specifying the effective date thereof, at least five days before the effective date of such termination. In such event, all finished or unfinished documents, data, studies, and reports prepared by the auditor under this contract shall, at the option of the city/county, become its property, and the auditor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents. Notwithstanding the above, the auditor shall not be relieved of liability to the city/county for damages sustained by the city/county by virtue of any breach of the contract by the auditor, and the city/county may withhold any payments to the auditor until such time as the exact amount of damages due the city/county from the auditor is determined.

2. Termination for Convenience of City/County

The city/county may terminate this contract at any time by giving the auditor five day notice. If the contract is terminated by the city/county as provided herein, the auditor will receive equitable compensation under this contract, less payments of compensation previously made; provided, however, that if less than sixty percent of the services covered by this contract have been performed upon the effective date of such termination, the auditor shall be reimbursed (in addition to the above payment) for that portion of the actual out- of-pocket expenses (not otherwise reimbursed under this contract) incurred by the auditor during the contract period which are directly attributable to the portion of the service covered by this contract. If this contract is terminated due to the fault of the auditor, Section 1 hereof relative to the termination shall apply.

3. Changes

The city/county may, from time to time, request changes in the scope of the services of the auditor to be performed hereunder. Such changes, including any increase or decrease in the amount of the auditor's compensation, which are mutually agreed upon by and between the city/county and the auditor, shall be incorporated in written amendments to this contract for approval by the Arkansas

Economic Development Commission prior to the effective date of such amendment(s).

4. Personnel

- a. The auditor represents that it has, or will secure at its own expense, all personnel required in performing the services under this contract. Such personnel shall not be employees of or have any contractual relationship with the city/county.
- b. All services required hereunder will be performed by the auditor or under his supervision and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under state and local law to perform such services.
- c. None of the work or services covered by this contract shall be sub-contracted without the prior written approval of the city or county. Any work or services subcontracted hereunder shall be specified in writing and are subject to all contract provisions.

5. Assignability

The auditor shall not assign nor transfer any interest on this contract (whether by assignment or notation), without the prior written consent of the city/county. Provided, however, that claims for money by the auditor from the city/county under this contract may be assigned to a bank, trust company, or other financial institution without such approval. Written notice of any such assignment or transfer shall be furnished promptly to the city/county.

6. Reports and Information

The auditor, at such times and in such forms as the city/county may require, shall furnish the city/county such periodic reports as it may request pertaining to the work or services undertaken pursuant to this contract, the costs and obligations incurred or to be incurred in connection therewith, and any other matters covered by this contract.

7. Records and Audits

The auditor shall maintain accounts and records, including personnel, property, and financial records, adequate to identify and account for all costs pertaining to the contract and such other records as may be deemed necessary by the city/ county to assure proper accounting for all project funds, both federal and non-federal shares. These records will be made available for audit purposes to the city/county or any authorized representative, and will be retained for three years after the expiration of this contract unless permission to destroy them is granted by the city/county after consultation with the Arkansas Economic Development Commission.

E. FINDINGS CONFIDENTIAL

All of the reports, information, data, etc., prepared or assembled by the auditor under this contract are confidential and the auditor agrees that they shall not be made available to any individual or organization without the prior written approval of the city/county.

F. COPYRIGHT

No reports, maps, or other documents produced in whole or in part under this contract shall be the subject of an application for copyright by or on behalf of the auditor.

G. COMPLIANCE WITH LOCAL LAWS

The auditor shall comply with all applicable laws, ordinances and codes of the state and local governments, and shall save the city/county harmless with respect to any damages arising from any tort done in performing any of the work under this contract.

H. CIVIL RIGHTS ACT / EQUAL EMPLOYMENT OPPORTUNITY

During the performance of this contract, the auditor agrees that

1. The auditor will not discriminate against any employee or applicant for employment because of age, race, creed, sex, color, veteran status, handicap or national origin. The auditor will take affirmative steps to ensure that applicants are employed, and that employees are treated during employment, without regard to their age, race, creed, sex, color, veteran status, handicap or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and, selection for training, including apprenticeship.
2. The auditor will, in all solicitation or advertisements for employees placed by or on behalf of the auditor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, sex, color, veteran status, handicap, or national origin.
3. The auditor will insert the foregoing provisions in subcontracts for any work covered by this contract which will be binding upon each subcontractor, provided that such foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.
4. The auditor will comply with Executive Order 11246, entitled "Equal Employment Opportunity", as amended by Executive Order 11375, and as supplemented in the Department of Labor regulations 4 CFR 6(D).

I. SECTION 3 COMPLIANCE IN THE PROVISION OF TRAINING, EMPLOYMENT AND BUSINESS OPPORTUNITIES

The auditor covenants that:

The work to be performed under this contract is on a project assisted under a program providing direct federal financial assistance from the Department of Housing and Urban Development through the Arkansas Economic Development Commission and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1983, as amended, 12 U.S.C. 1701u. Section 3 requires that to the greatest extent feasible, opportunities for training and employment be given to lower income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in the area of the project.

It will comply with the provisions of Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of this contract. The auditor certifies that it is under no contractual or other disability which would prevent it from complying with these requirements.

It will send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or workers' representative of his commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

It will include this Section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR 135. The contractor will not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR 135 and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

J. SECTION 503 OF THE REHABILITATION ACT OF 1973, AS AMENDED (IF \$2,500 OR OVER) AFFIRMATIVE ACTION FOR HANDICAPPED WORKERS

The auditor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The auditor agrees to take affirmative steps to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices such as the following: employment, upgrading,

demotion or transfer; recruitment, advertising, layoff or termination; rates of pay or other forms of compensation; and, selection for training, including apprenticeship.

The auditor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

In the event of the auditor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

The auditor agrees to post conspicuous notices to employees and employment applicants stating the auditor's obligation under law to take affirmative steps to employ and advance in employment qualified handicapped employees and applicants for employment, and the rights of applicants and employees.

The auditor will notify each labor union or worker representative with which it has a collective bargaining agreement or other such contract, that the auditor is bound by the terms of Section 503 of the Rehabilitation Act of 1973, and is committed to take affirmative steps to employ and advance in employment physically and mentally handicapped individuals.

The auditor will include the provisions of this clause in every subcontract or purchase order of \$2,500 or more unless exempted by rules, regulations, or orders of the Secretary issued pursuant to Section 503 of the Act, so that such provisions will be binding upon each subcontractor with respect to any subcontract or purchase order as the Director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

K. INTEREST OF OTHER LOCAL PUBLIC OFFICIALS AND/OR MEMBERS OF THE LOCALITY

No member of the governing body of the locality, and no other officer, employee or agent of the locality who exercises any functions or responsibilities in connection with the planning and carrying out of the program shall have any personal financial interest, direct or indirect, in this contract; and the auditor shall take appropriate steps to assure compliance.

L. INTEREST OF AUDITOR AND EMPLOYEES

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

M. COMPLIANCE WITH HUD AND THE ARKANSAS ECONOMIC DEVELOPMENT COMMISSION PATENT RIGHTS IN RESEARCH REGULATIONS

The auditor will comply with all requirements and regulations of HUD and the Arkansas Economic Development Commission pertaining to reporting and patent rights involving research, developmental, experimental or demonstration work with respect to any discovery or invention which arises or is developed in the course of this contract. The auditor will also comply with HUD and the Arkansas Economic Development Commission requirements pertaining to copyrights and rights in data.

N. INDEMNIFICATION

The auditor shall comply with all applicable laws, rules, and regulations, and shall exonerate, indemnify, and hold harmless the city/county and its employees from, and shall assume full responsibility for payments of federal, state, and local taxes or contributions imposed or required under the social security, workman's compensation, and income tax laws.

O. ACCESS TO RECORDS

The city/county, the Arkansas Economic Development Commission, the Joint Legislative Audit Division of Arkansas, HUD, the Comptroller General of the U.S., or any of their authorized representatives, shall have access to any papers, books, documents, and records of the auditor doing work under this contract which are directly pertinent to the project funded by the Arkansas Economic Development Commission for the purpose of making audit, examination, excerpts, and transcriptions.

P. MISCELLANEOUS PROVISIONS

1. This agreement shall be construed under and in accordance with the laws of the State of Arkansas.
2. This agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors administrators, legal representatives, successors, and assigns where permitted by this agreement.
3. In case any one or more of the provisions contained in this agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and this agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.
4. This agreement may be amended in writing by mutual agreement of both parties if such amendment is attached to and incorporated into this agreement.

This execution of the agreement on behalf of the city/county has been duly authorized as follows:

IN WITNESS HEREOF, the parties have hereunto set their hands as of the date first above written.

(Mayor/Judge)

(CPA)

(City/County)

(Audit Firm)

(Date signed)

(Date signed)

