AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

AgendaTitle:
Purchase of Service Contract, County, Colorado; Discover Goodwill of Southern and Western Colorado; Low-Income Energy Assistance Program (LEAP) Administration; 10/1/13 thru 9/30/14

Action Requested: Board of County Commissioners' Signature

Parties to the Agreement: Gunnison County & Discover Goodwill of Southern & Western CO

Term Begins: **Term Ends:** **Grant Contract #:**

Summary:
Administration of LEAP

Fiscal Impact:

Submitted by: B.Lucero for R. Brown **Submitter's Email Address:** rbrown@gunnisoncounty.org

Finance Review: (●) Required ( ) Not Required

Comments:

This relationship has worked out just great from a financial stand point! We pay Discover Goodwill 1/12th of the DHS LEAP admin allocation to administer the program. There are no cost overruns this way and no worries about how to assimilate a part-time, temporary employee into a permanent position! ME

Maureen Eden

Reviewed by: Lnienhueser Discharge Date: 7/19/2013

County Attorney Review: (●) Required ( ) Not Required

Comments:

Reviewed by: ATrezise Discharge Date: 7/18/2013 Certificate of Insurance Required Yes (●) No ( )

County Manager Review:

Comments:

Reviewed by: MBirnie Discharge Date: 7/19/2013

(●) Consent Agenda ( ) Regular Agenda ( ) Worksession Time Allotted:

Agenda Date: 7/23/2013 Follow Up Agenda Date: N/A

Revised April 2013

PURCHASE OF SERVICE CONTRACT
COUNTY, COLORADO

THIS AGREEMENT is made by and between the Board of County Commissioners of Gunnison County, Colorado, (County), located at 200 E. Virginia, Gunnison, Colorado and the program named Discover Goodwill of Southern and Western Colorado, located at 1460 Garden of Gods Rd., Colorado Springs, Colorado 80907 (Contractor). County and the Contractor, for the consideration herein set forth, agree as follows:

SECTION I - SERVICES OF THE CONTRACTOR

The program and scope of services outlined in this Agreement relate to the Low-Income Energy Assistance ("LEAP") Program:

A. Purpose
The purpose of the program is to:

Assist low-income households to:
A) Meet their home heating costs, and
B) Address home heating emergencies, such as residential heating system repairs.

B. Service Recipients

Households with the lowest income and the highest heating costs in relation to income, taking into account family size, are the target population. This may include the elderly, the disabled and the homebound. Renters and homeowners shall be treated equitably. It may be necessary to process expedited applications due to emergency situations (e.g., clients receiving disconnect notices or fuel source has been shut off, eviction notices, out of fuel, etc.).

C. Performance Measurements

The Colorado Department of Human Services (CDHS) LEAP Office and the State Auditor regularly monitor and audit County programs for compliance with all LEAP rules and guidelines, including time limits for processing applications and using the correct criteria for determining income, vulnerability to heating costs, eligibility, etc. If a program review or audit by State or Federal offices or by the County auditor or contract management staff results in the need for a corrective action plan, Contractor shall develop such plan and implement it after receiving the County's approval. If such an audit results in a financial penalty for the County, Contractor agrees that it shall be responsible for reimbursing the County.

D. Anticipated Outcomes

Timely and accurate processing of LEAP applications.

E. Services

Services shall include but not be limited to:

- **See Attachment 1 Scope of Services.**

F. Records and Reports

The Contractor shall:

1) Contractor and its staff shall protect the confidentiality of all applicant/recipient records and other materials that are maintained in accordance with this contract. Except for purposes directly connected with the administration of this program/project, no information about or obtained from any applicant/recipient in the possession of the contractor or any of its staff shall be disclosed in a form identifiable of the applicant/recipient without their prior written approval. Contractor shall have written policies governing access to, duplication and dissemination of all such information. Contractor shall advise its employees, agents, subcontractors, if any, that they are subject to these confidentiality requirements. Contractor shall provide its employees, agents and subcontractors with a copy or written explanation of these confidentiality requirements before access to confidential data is permitted. Contractor shall comply with the Information Technology (IT) requirements of both the State and the County. Contractor shall be held responsible and accountable for its employees' use of County computers.

2) Contractor shall maintain case records in its office in a secure manner. A filing order shall be established and all cases shall be kept up to date and in the established filing order. The filing method developed by the Contractor must be approved by the County.

SECTION II - RESPONSIBILITIES OF THE COUNTY

The County, through Gunnison County Department of Health & Human Services (GCDHHS), shall provide:

1. The County shall promptly notify the Contractor of all pertinent changes in this program including, but not limited to, changes in applicable law or regulations; changes in the eligibility requirements; availability of funds; changes in computer system requirements; and changes in data collection requirements.

2. The County or the State shall supply the Contractor with applications for the LEAP program, brochures and self-addressed, stamped envelopes for the return of the applications.

3. The County, the State, and Contractor shall work together to provide application forms to all new applicants for public assistance, non-assistance Food Stamp households, and Medicaid households, as well as prior year LEAP-only households.

4. The County shall provide the Contractor with access to the State computer systems and other systems as necessary.

5. Unless otherwise agreed, the County or the State shall contract with all bulk and non-bulk fuel suppliers who have indicated they are interested in participating in the program and who are acceptable to the County for provision of heating, emergency situations, and weatherization services as provided for under the LEAP program.

6. The County shall monitor the Contractor's performance. Such monitoring may include, but not be limited to:

   - customer service with both clients and vendors
   - the evaluation of reports submitted by Contractor to the State LEAP data system
   - monitoring of Contractor's billing processes related to the LEAP Program, including the timeliness of bill submission
   - evaluation of complaints and complaint resolution
   - monitoring of the accuracy of records maintained by the Contractor
   - the number of applications mailed and distributed; number of applications received
   - number of applications approved and denied; number of emergency cases
   - number of telephone interviews; number of outreach efforts made
   - number of vendor and client complaints received and how resolved
   - other program outcome measures as may be mutually agreed upon during contract negotiation.

SECTION III – TERM

The term of this Agreement shall be from October 1, 2013, through September 30, 2014.

SECTION IV - PAYMENT AND FEE SCHEDULE

1. Availability of Funds

Payment pursuant to this contract is subject to and contingent upon the continuing availability of Federal and State funds for the various programs. In the event that such funds are increased, decreased or become unavailable, the services provided herein shall be increased, decreased or terminated accordingly. Reimbursement under this contract shall be allowed up to the contract amount based on actual expenditures.

2. Payments to Contractor

Contractor shall submit monthly billing based on expenditures by the 30th of each month for services provided in the previous month.

3. Reimbursement

Contractor shall receive reimbursement in accordance with the Budget that is negotiated annually between the Contractor and County. The total amount allowed in the contract shall not exceed the annual allocation for Administrative expenses established by the Colorado Department of Human Services.

4. Administrative Expenditure

Administrative expenses may include the following:

- Personnel Costs (Includes LEAP supervisors, eligibility technicians, clerks, data entry personnel, and support staff, e.g. accountants);
- Rent of Office Space;
- Office Furnishings;
- Telephone;
- Automated Systems: Includes computer hardware, software, maintenance, Internet access and other associated costs;
- Office Supplies and Equipment;
- Mailing Costs: Includes costs to mail letters requesting earnings documentation, heating bills, or other verification required to determine eligibility and benefit amount;
- Travel: Includes transportation costs between local offices, utility company sites, and travel to meetings and conferences.
- Administrative Fee
- Indirect expenses at 12%

SECTION V – INDEPENDENT CONTRACTOR

In providing services under this Agreement, the Contractor acts as an independent contractor and not as an employee of the County. The Contractor shall be solely and entirely responsible for his/her acts, and the acts of his/her employees, agents, servants, and subcontractors during the term and performance of this Agreement. No employee, agent, servant, or subcontractor of the Contractor shall be deemed to be an employee, agent, or servant of the County because of the performance of any services or work under this Agreement. The Contractor, at its expense, shall procure and maintain workers' compensation insurance as required by law.

Pursuant to section 8-40-202(2)(b)(IV), C.R.S., as amended, Contractor understands that Contractor and Contractor's employees/agents are not entitled to workers' compensation benefits from Gunnison County. Contractor further understands that Contractor is solely obligated for the payment of federal and state income tax on any moneys earned pursuant to this Agreement.

SECTION VI – NONDISCRIMINATION

The Contractor shall not discriminate against any employee or qualified applicant for employment because of age, race, color, religion, marital status, disability, sex, or national origin. The Contractor agrees to post in conspicuous places, available to employees and

applicants for employment, notices provided by the local public agency setting forth the provisions of this nondiscrimination clause. The Contractor agrees to comply with the Americans with Disabilities Act and Section 504 of the Rehabilitation Act, which provide that no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefit of services.

The Contractor is familiar with CDHS Staff Manual, Vol. 3, section 3.860.5,et seq., and shall comply with all of the provisions thereof.

SECTION VII – INDEMNIFICATION

The Contractor agrees to indemnify and hold harmless the County, its officers, agents, elected officials, and employees for, from, and against any and all claims, suits, expenses, damages, or other liabilities, including reasonable attorney fees and court costs, arising out of damage or injury to persons, entities, or property caused or sustained by any person(s) as a result of the Contractor's performance or failure to perform pursuant to the terms of this Agreement.

SECTION VIII - INSURANCE

The Contractor agrees to maintain insurance of the following types and amounts:

Commercial General Liability Insurance: to include products liability, completed operations, contractual, broad form property damage and personal injury.
Each Occurrence $1,000,000
General Aggregate $2,000,000

Comprehensive Automobile Liability Insurance: to include all motor vehicles owned, hired, leased, or borrowed.
Bodily Injury/ Property Damage $1,000,000 (each accident)

Personal Injury Protection per Colorado Statutes

Workers' Compensation Insurance: Per Colorado Statutes

*Professional Liability Insurance: to include coverage for damages or claims for damages arising out of the rendering, or failure to render, any professional services.
Each Occurrence $1,000,000

*This insurance requirement applies only to Contractors who are performing services under this Agreement as professionals licensed under the laws of the State of Colorado, such as physicians, lawyers, engineers, nurses, mental health providers, and any other licensed professionals. The Contractor's commercial general liability, comprehensive automobile liability, and professional liability insurance policies and/or certificates of insurance shall be issued to include Gunnison County as an "additional insured," and shall include the following provisions:

1. Underwriters shall have no right of recovery or subrogation against the County, it being the intent of the parties that the insurance policies so affected shall protect both parties

and be primary coverage for any and all losses resulting from the actions or negligence of the Contractor.

2. The insurance companies issuing the policy or policies shall have no recourse against the County for payment of any premiums due or for any assessments under any form of any policy.
3. Any and all deductibles contained in any insurance policy shall be assumed by and at the sole risk of the Contractor. All insurers of the Contractor must be licensed or approved to do business in the State of Colorado.

Upon failure of the Contractor to furnish, deliver and/or maintain such insurance as provided herein, this Agreement, at the election of the County, may be immediately declared suspended, discontinued, or terminated. Failure of the Contractor in obtaining and/or maintaining any required insurance shall not relieve the Contractor from any liability under this Agreement, nor shall the insurance requirements be construed to conflict with the obligations of the Contractor concerning indemnification. Each insurance policy herein required shall be endorsed to state that coverage shall not be suspended, voided, or canceled without thirty (30) days prior written notice by certified mail, return receipt requested, to the County. At any time during the term of this Agreement, the County may require the Contractor to provide proof of the insurance coverage or policies required under this Agreement.

SECTION IX – TERMINATION

A. For Cause

If, through any cause, the Contractor fails to fulfill its obligations under this Agreement in a timely and proper manner, or if the Contractor violates any of the covenants, conditions, or stipulations of this Agreement, the County shall thereupon have the right to immediately terminate this Agreement, upon giving written notice to the Contractor of such termination and specifying the effective date thereof. If, through any cause, the County fails to fulfill its obligations under this Agreement in a timely and proper manner, or if the County violates any of the covenants, conditions, or stipulations of this Agreement, the Contractor shall thereupon have the right to immediately terminate this Agreement, upon giving written notice to the County of such termination and specifying the effective date thereof.

B. For Convenience

The County may terminate the Agreement at any time by giving written notice as specified herein to the other party, which notice shall be given at least thirty (30) days prior to the effective date of the termination. If the Agreement is terminated by the County, the Contractor will be paid an amount that bears the same ratio to the total compensation as the services actually performed bear to the total services the Contractor was to perform under the Agreement, less payments previously made to the Contractor under the Agreement.

SECTION X - MUTUAL UNDERSTANDINGS

A. Jurisdiction and Venue
The laws of the State of Colorado shall govern as to the interpretation, validity, and effect of this Agreement. The parties agree that jurisdiction and venue for any disputes arising under this Agreement shall be in Gunnison County, Colorado.

B. Compliance with Laws
During the performance of this Agreement, the Contractor agrees to strictly adhere to all applicable federal, state, and local laws, rules and regulations, including all licensing and permit requirements. The parties hereto aver that they are familiar with § 188-301, et seq., C.R.S. (Bribery and Corrupt Influences), as amended, and § 18-8-401, et seq., C.R.S. (Abuse of Public Office), as amended, and that no violations of such provisions are present. Without limiting the generality of the foregoing, Contractor expressly agrees to comply with the privacy and security requirements of the Health Insurance Portability and Accountability Act of 1996 when exposed to or provided with any data or records under this agreement considered to be Protected Health Information.

C. Record Retention
The Contractor shall maintain records and documentation of the services provided under this Agreement, including fiscal records, and shall retain the records for a period of three (3) years from the date this Agreement is terminated. Said records and documents shall be subject at all reasonable times to inspection, review, or audit by authorized federal, state, or County personnel. Personally identifiable information shall require a current release from the client.

D. Assignability
Neither this Agreement, nor any rights hereunder, in whole or in part, shall be assignable or otherwise transferable by the Contractor without the prior written consent of the County.

E. Waiver
Waiver of strict performance or the breach of any provision of this Agreement shall not be deemed a waiver, nor shall it prejudice the waiving party's right to require strict performance of the same provision, or any other provision in the future, unless such waiver has rendered future performance commercially impossible.

F. Force Majeure
Neither party shall be liable for any delay or failure to perform its obligations hereunder to the extent that such delay or failure is caused by a force or event beyond the control of such party including, without limitation, war, embargoes, strikes, governmental restrictions, riots, fires, floods, earthquakes, or other acts of God.

G. Confidentiality
Both parties acknowledge that information obtained and exchanged about clients in the performance this contract is confidential. Both parties will protect all confidential information pursuant to the requirements of state and federal law. Both parties acknowledge that release of this information is subject to the requirements of federal and state law.

H. Integration of Understanding
This Agreement contains the entire understanding of the parties hereto and neither it, nor the rights and obligations hereunder, may be changed, modified, or waived except by an instrument in writing that is signed by the parties hereto.

I. Severability
If any provision of this Agreement is determined to be unenforceable or invalid for any reason, the remainder of this Agreement shall remain in effect, unless otherwise terminated in accordance with the terms contained herein.

J. Authorization
Each party represents and warrants that it has the power and ability to enter into this Agreement, to grant the rights granted herein, and to perform the duties and obligations herein described.

K. Incident Report Requirement
The Contractor shall report all incidents of suspected theft, fraud, or other employee misconduct to one of the following: Gunnison County Health & Human Services Director, Finance Director, or the assigned Contract Manager immediately upon discovery, of each incident. This applies to all contracted employees who serve the program in this agreement and includes any employees, who have access or gain access to County's materials, supplies, or monies, through this contract. The Contractor will comply and cooperate with the County on requests for information and assistance relevant to each incident reported and any ensuing investigation.

SECTION XI - COMPLIANCE WITH C.R.S. § 8-17.5-101, ET. SEQ. AS AMENDED 5/13/08

Pursuant to Colorado Revised Statute (C.R.S.), § 8-17.5-101, et. seq., as amended 5/13/08, the Contractor shall meet the following requirements prior to signing this Agreement (public contract for service) and for the duration thereof:

1. The Contractor shall certify participation in the E-Verify Program (the electronic employment verification program that is authorized in 8 U.S.C. § 1324a and jointly administered by the United States Department of Homeland Security and the Social Security Administration, or its successor program) or the County Program (the employment verification program established by the Colorado Department of Labor and Employment pursuant to C.R.S. § 8-17.5-102(5)) on the attached certification.
2. The Contractor shall not knowingly employ or contract with an illegal alien to perform work under this public contract for services.
3. The Contractor shall not enter into a contract with a subcontractor that fails to certify to the Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this public contract for services.

4. At the time of signing this public contract for services, the Contractor has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this public contract for services through participation in either the E-Verify Program or the County Program.
5. The Contractor shall not use either the E-Program or the County Program procedures to undertake pre-employment screening of job applicants while this public contract for services is being performed.
6. If Contractor obtains actual knowledge that a subcontractor performing work under this public contract for services knowingly employs or contracts with an illegal alien, the Contractor shall notify the subcontractor and the County within three days that the Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and terminate the subcontract with the subcontractor if within three days of receiving the notice required pursuant to the previous sentence, the subcontractor does not stop employing or contracting with the illegal alien; except that the Contractor shall not terminate the contract with the subcontractor if during such three days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.
7. Contractor shall comply with any reasonable requests by the Department of Labor and Employment made in the course of an investigation that the Department of Labor and Employment is undertaking pursuant to the authority established in C.R.S. § 8-17.5-102(5).
8. If Contractor violates this section of this Agreement, the County may terminate this Agreement for breach of contract. If the Agreement is so terminated, the Contractor shall be liable for actual and consequential damages to the County.

CONTRACTOR'S CERTIFICATION OF COMPLIANCE

Pursuant to Colorado Revised Statute, § 8-17.5-101, et.seq., as amended 5/13/08, as a prerequisite to entering into a contract for services with Gunnison County, Colorado, the undersigned Contractor hereby certifies that at the time of this certification, Contractor does not knowingly employ or contract with an illegal alien who will perform work under the attached contract for services and that the Contractor will participate in the E-Verify Program or Department program, as those terms are defined in C.R.S. § 8-17.5-101, et. seq., in order to confirm the employment eligibility of all employees who are newly hired for employment to perform work under the attached contract for services.

CONTRACTOR:
Discover Goodwill of Southern and Western Colorado

By: _____ Date:_____

Name:_____

Title:_____

Note: Registration for the E-Verify Program can be completed at: https://www.vis-dhs.com\employerregistration. It is recommended that employers review the sample "memorandum of understanding" available at the website prior to registering

9. Notice - Any notices given under this Agreement are deemed to have been received and to be effective: 1) three (3) days after the same shall have been mailed by certified mail, return receipt requested; 2) immediately upon hand delivery; or 3) immediately upon receipt of confirmation that a facsimile was received. For the purposes of this Agreement, any and all notices shall be addressed to the contacts listed below:

For the County:

For the Contractor:

ATTEST:

[SEAL]

SECTION XII - APPLICABLE TO ALL SOLE SOURCE CONTRACTS

A. The provisions of the section apply to all sole source government contracts, as defined by section 2 of Article XXVIII of the Colorado Constitution, for contract amounts greater than One Hundred Thousand Dollars ($100,000) (indexed for inflation per the United States Bureau of Labor statistics consumer price index for Denver-Boulder Greeley after the year 2012, adjusted every four years, beginning January 1, 2012, to the nearest, lowest twenty-five dollars ($25.00). This amount is cumulative and includes all sole source government contracts with any and all governmental entities involving Contractor during a calendar year.

B. Because of a presumption of impropriety between contributions to any campaign and sole source government contracts, Contractor contractually agrees, for the duration of this contract and for two years thereafter, to cease making, causing to be made, or inducing by any means, a contribution, directly or indirectly, on behalf of Contractor or on behalf of his or her immediate family member and for the benefit of any political party or for the benefit of any candidate for any elected office of the state or any of its political subdivisions.

C. Contractor further agrees that if it makes or causes to be made any contribution intended to promote or influence the result of an election on a ballot issue, it shall not be qualified to enter into a sole source government contract relating to that particular ballot issue.

D. If Contractor intentionally violates section 15 or 17(2) of Article XXVII of the Colorado Constitution, as contractual damages Contractor shall be ineligible to hold any sole source government contract, or public employment with the state or any of its political subdivisions, for three years. These provisions shall not apply to the extent they have been enjoined or invalidated by a court of competent jurisdiction.

IN WITNESS WHEREOF, the parties hereto have caused their names to be affixed hereto.

CONTRACTOR:
DISCOVER GOODWILL OF SOUTHERN AND WESTERN COLORADO

_____

BOARD OF COUNTY COMMISSIONERS
GUNNISON COUNTY, COLORADO

_____

Chair Date

ATTEST:

_____

[SEAL]

ATTACHMENT 1
SCOPE OF SERVICES

The Contractor shall be responsible for providing the following deliverables and services:

1. Complete **administration** of the LEAP Program, including but not limited to:

    a. Compliance with all LEAP Rules and Regulations
    b. Adequate management and supervisory oversight of the program.
    c. Hiring and decreasing personnel as necessary for the efficient administration of the program.
    d. Establish and maintain fiscal controls and accounting procedures to ensure the proper use and accounting of funds under this program.
    e. Contractor must have or obtain a postage meter machine to do mailings and track those mailings for the Program (such as the notification of eligibility and other notices which are sent from the State to the Department.) The machine and mailings are part of either operational (administrative) or outreach costs and can, with appropriate documentation, be reimbursed to the Contractor.

2. Complete **operational management** of the LEAP Program in compliance with all LEAP Rules and Regulations, including but not limited to:

    a. Collaboration with bulk and non-bulk fuel suppliers under contract with the State. Contractor shall monitor the quality of services that vendors provide to LEAP clients and shall resolve such quality issues or procedural concerns with vendors, and/or report any unresolved problems or concerns to the County. Contractor shall monitor the following vendor service areas and any others as necessary:

- Households are billed by vendors in accordance with LEAP Program rules and regulations.
- Appropriate services are provided by vendors to eligible households.
- Appropriate account credits are issued by vendors to eligible households.
- Services to LEAP clients that were "shut-off" are later adequately restored by the vendors in accordance with LEAP Program rules and regulations.
- Account balances are refunded to eligible households (or to the County) in accordance with the LEAP Program rules and regulations.
- Recovery procedures are appropriately initiated by vendors.
- Estimated Home Heating Costs (EHHC) are provided for eligible Households using the Vendor's service.

    b. Timely and accurate processing of applications.

c. Determination and verification of client eligibility for the program.

d. Sending notices of acceptance or denial of the applications.

e. All required data entry into the State information system.

f. Handling of appeals and other complaints from clients, vendors, other governmental agencies.

g. Maintenance of all required records.

h. Routine customer service.

i. Preparation of all required reports, including audit responses to the State and outcome reports to the County.

j. Complete operation and administration of the Crisis Intervention Program, including but not limited to:
   - Determine and verify eligibility;
   - Respond to home heating related crises as defined in the LEAP Rules and Regulations;
   - Respond to life-threatening home heating emergencies including those which occur during non-business hours;
   - Maintenance of all required records and preparation of all required reports.

k. It is mandatory for all of Contractor's LEAP personnel to attend the annual one-week training provided by the State LEAP Office. This usually occurs in early October. The cost of the training is billable to the LEAP program.

l. Contractor must maintain complete confidentiality of client records in accordance with all applicable County, state and federal laws, rules and regulations. Contractor must sign all confidentiality statements required by the State and/or the County. All data related to the LEAP Program belongs to the State/County.