

ENFORCEMENT ACTION AGAINST §
BREAD OF LIFE, INC. WITH §
RESPECT TO EMERGENCY §
SHELTER GRANT PROGRAM §
CONTRACT # 42110001270) §
BEFORE THE
TEXAS DEPARTMENT OF
HOUSING AND
COMMUNITY AFFAIRS

AGREED FINAL ORDER

General Remarks and official action taken:

On this 12th day of March, 2015, the Governing Board (“Board”) of the Texas Department of Housing and Community Affairs (“TDHCA”) considered the matter of whether enforcement action should be taken against **BREAD OF LIFE, INC.**, a Texas nonprofit corporation (“Respondent”).

This Agreed Order is executed pursuant to the authority of the Administrative Procedure Act (“APA”), Tex. Gov’t Code §2001.056, which authorizes the informal disposition of contested cases. In a desire to conclude this matter without further delay and expense, the Board and Respondent agree to resolve this matter by this Agreed Final Order. The Respondent agrees to this Order for the purpose of resolving this proceeding only and without admitting or denying the findings of fact and conclusions of law set out in this Order.

Upon recommendation of the Administrative Penalties Committee, the Board makes the following findings of fact and conclusions of law and enters this Order:

WAIVER

Respondent acknowledges the existence of their right to request a hearing as provided by TEX. GOV’T CODE § 2306.044, and to seek judicial review, in the District Court of Travis County, Texas, of any order as provided by TEX. GOV’T CODE § 2306.047. Pursuant to this compromise and settlement, the Respondent waives those rights and acknowledges the jurisdiction of the Board over Respondent.

FINDINGS OF FACT

Jurisdiction:

1. During TDHCA Fiscal Year 2011, Bread of Life, Inc. (“Respondent”) was awarded by the Board an allocation of Emergency Shelter Grants (“ESG”) Program funds in the total amount of \$190,940.00, to provide approved services necessary to help persons that are either homeless or at risk of homelessness.

2. Respondent signed ESG Contract Number 42110001270 on September 21, 2011 (the "Contract"). The period of performance under the Contract was September 1, 2011 through August 31, 2012.

Compliance Violations:

3. An on-site monitoring review was conducted on January 30, 2013, to determine whether Respondent was in compliance with the Contract and all applicable state and federal statutes, regulations, and rules. The monitoring review resulted in three findings. Notifications of noncompliance were sent and a March 20, 2013, corrective deadline was set, however, the following findings were not corrected before the deadline and remain outstanding at the time of this order, with disallowed costs totaling \$44,000.00:
 - a. Respondent procured leased facilities located at 4124 Kolb, Houston, Harris County, Texas and, in doing so, failed to follow small purchase procurement requirements, a violation of Section 6.B of the Contract, and 10 TEX. ADMIN. CODE §5.10, both of which require compliance with procurement procedures at Office of Management and Budget ("OMB") Circular A-110 as implemented by 2 C.F.R. Part 215. In addition to the small purchase procurement violation, Respondent signed the lease contract despite a known conflict of interest; the property was owned by the family of a board member, a violation of Section 16 of the Contract regarding conflicts of interest, and a violation of OMB Circular A-110 as implemented by 2 C.F.R. Part 215, which prohibits the participation of an employee, officer, or agent in the selection, award, or administration of a contract supported by Federal Funds if the employee, officer, or agent, or any member of his or her immediate family has a financial interest. The full amount of funds expended on the leased premises, totaling \$44,000.00, is a disallowed cost and must be reimbursed to TDHCA in accordance with Sections 4.C. and 22.C of the Contract, which require Subrecipient to repay disallowed costs to TDHCA from funds which were not provided or otherwise made available to Subrecipient under this Contract.

CONCLUSIONS OF LAW

1. The Department has jurisdiction over this matter pursuant to Tex. Gov't Code §§2306.041-.0503 and 10 TEX. ADMIN. CODE §2.
2. The Contract is a Program Agreement as that term is defined in 10 TAC §2.101(a)(4).
3. Respondent is a Responsible Party because it is subject to a Program Agreement (see 10 TAC §2.101(a)(5))
4. Respondent violated Section 6.B of the Contract and OMB Circular A-110 as implemented by 2 C.F.R. Part 215, by failing to follow procurement procedures and codes of conduct when leasing the property at 4124 Kolb, Houston, Harris County, Texas.

5. Because Respondent is a Responsible Party who has violated rules promulgated pursuant to Tex. Gov't Code §2306, TDHCA is authorized to impose administrative penalties pursuant to Tex. Gov't Code §2306.041
6. An administrative penalty of \$1,000.00 is an appropriate penalty in accordance with 10 TEX. ADMIN. CODE §2.
7. Respondent is required to repay disallowed costs to the Department in accordance with Sections 4.C and 22.C of the Contract, which require Subrecipient to repay disallowed costs to TDHCA from funds which were not provided or otherwise made available to Subrecipient under the Contract.

Based upon the foregoing findings of fact and conclusions of law, and an assessment of the factors set forth in Tex. Gov't Code §2306.042 to be considered in assessing such penalties as applied specifically to the facts and circumstances present in this case, the Board of the Texas Department of Housing and Community Affairs orders the following:

IT IS HEREBY ORDERED that Respondent is assessed an administrative penalty in the amount of \$1,000.00, subject to deferral as further ordered below.

IT IS FURTHER ORDERED that Respondent shall repay \$44,000.00 in disallowed costs in accordance with the payment schedule listed below:

Payment Submission Date	Minimum Payment Amount
4/1/2015	\$7,333.00
5/1/2015	\$7,333.00
6/1/2015	\$7,333.00
7/1/2015	\$7,333.00
8/1/2015	\$7,333.00
9/1/2015	\$7,335.00

IT IS FURTHER ORDERED that Respondent shall submit regular monthly payments to TDHCA beginning on 4/1/2015, as indicated at Attachment 1, to be applied toward disallowed costs.

IT IS FURTHER ORDERED that if Respondent complies with the payment requirements above and repays the full amount of disallowed costs, \$44,000.00, on or before September 1, 2015, the satisfactory performance under this order will be accepted in lieu of the full assessed administrative penalty and the full amount of the administrative penalty will be deferred and forgiven.

IT IS FURTHER ORDERED that if Respondent fails to repay the full amount of disallowed costs, \$44,000.00, or fails to satisfy any conditions or otherwise violates any provision of this order, then the full administrative penalty in the amount of \$1,000.00 shall be immediately due and payable to the Department. Such payment shall be made by cashier's check payable to the "Texas Department of Housing and Community Affairs" within thirty days of the date the Department sends written notice to Respondent

IT IS FURTHER ORDERED that all monthly payments and/or penalty payments shall be submitted to the following address:

If via overnight mail (FedEx, UPS):	If via USPS:
TDHCA Attn: Ysella Kaseman 221 E 11 th St Austin, Texas 78701	TDHCA Attn: Ysella Kaseman P.O. Box 13941 Austin, Texas 78711

IT IS FURTHER ORDERED that the terms of this Agreed Final Order shall be published on the TDHCA website.

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Approved by the Governing Board of TDHCA on March 12, 2015.

By: /s/ J. Paul Oxe
Name: J. Paul Oxe
Title: Chair of the Board of TDHCA

By: _____
Name: Barbara B. Deane
Title: Secretary of the Board of TDHCA

THE STATE OF TEXAS §
§
COUNTY OF TRAVIS §

Before me, the undersigned notary public, on this 12th day of March, 2015, personally appeared J. Paul Oxe, proved to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

(Seal)

/s/ Leah Sargent Rosas
Notary Public, State of Texas

THE STATE OF TEXAS §
§
COUNTY OF TRAVIS §

Before me, the undersigned notary public, on this 12th day of March, 2015, personally appeared Barbara B. Deane, proved to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the purposes and consideration therein expressed.

(Seal)

/s/ Leah Sargent Rosas
Notary Public, State of Texas

STATE OF TEXAS §
§
COUNTY OF HARRIS §

BEFORE ME, Alice Richardson, a notary public in and for the State of Texas, on this day personally appeared Dana Hogan, known to me or proven to me through Bread of Life, Inc. to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that (he/she) executed the same for the purposes and consideration therein expressed, who being by me duly sworn, deposed as follows:

1. "My name is Dana Hogan, I am of sound mind, capable of making this statement, and personally acquainted with the facts herein stated.
2. I hold the office of CEO for Respondent. I am the authorized representative of Respondent, Bread of Life, Inc., which is subject to an Emergency Shelter Grant contract monitored by the TDHCA in the State of Texas, and I am duly authorized by Respondent to execute this document.
3. Respondent knowingly and voluntarily enters into this Agreed Final Order, and agrees with and consents to the issuance and service of the foregoing Agreed Order by the Board of the Texas Department of Housing and Community Affairs."

RESPONDENT:

BREAD OF LIFE, INC., Texas nonprofit corporation

By: /s/ Dana Lamar Hogan
Name: Dana Lamar Hogan
Title: CEO

Given under my hand and seal of office this 18th day of March, 2015.

/s/ Alice L. Richardson
Signature of Notary Public

Alice L. Richardson
Printed Name of Notary Public

NOTARY PUBLIC IN AND FOR THE STATE OF TEXAS
My Commission Expires: 12-17-2017