

Hialeah Housing Authority

75 East 6th Street, Hialeah Florida 33010
Tel. (305) 888-9744 / Fax. (305) 887-0997



RFP PACKAGE

Elevator Preventive Maintenance Services

RFP # 24-02-001

March 13th, 2024

(BID DEADLINE)



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**REQUEST FOR PROPOSALS (RFP) FOR
Elevator Preventive Maintenance Services**

ISSUING DEPARTMENT
Purchasing Department
for
Hialeah Housing Authority

Contact: Maria Maury, Purchasing Officer
Telephone: (305)827-5103
E-mail: mmaury@hialeahhousing.org

Solicitation Issued Date
February 21th, 2024

Deadline for Receipt of Questions
February 28th, 2024

**PROPOSALS ARE DUE AT THE ADDRESS SHOWN BELOW
NO LATER THAN**

March 13th, 2024, at 11:00 AM
(Eastern Standard Time)

HIALEAH HOUSING AUTHORITY
75 East 6th Street
Hialeah, Florida 33010

SECTION 3 COVERED ACTIVITIES (HHA PROJECTS ONLY). SECTION 3 REQUIRES THAT JOB TRAINING, EMPLOYMENT, AND CONTRACTING OPPORTUNITIES BE DIRECTED TOWARD LOW-AND VERY LOW-INCOME PERSONS



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1.0 PROJECT OVERVIEW AND GENERAL TERMS AND CONDITIONS

1.1 Introduction

The Hialeah Housing Authority (hereinafter referred to as (“HHA”), an unincorporated instrumentality of the City of Hialeah and duly organized and existing pursuant to the Florida Statutes 421, is soliciting proposals from qualified, responsible firms interested in conducting Elevator Preventive Maintenance Services. The Agency anticipates that it will initially award a contract for the period of 1 year with the option, at the Agency’s discretion, of four (4) additional one-year extensions for a maximum total of 5 years. Starting May 1,2024

1.2 Definitions

The following words and expressions used in this solicitation shall be construed as follows, except when it is clear from the context that another meaning is intended:

- 1.2.1 “Administrative Offices” means the HHA’s Main Administration Building.
- 1.2.2 The words “Contractor” or “Consultant” mean the Proposer that receives any award of a Contract from the HHA as a result of this Solicitation, which is also to be known as “the prime Contractor” or “the prime Consultant.”
- 1.2.3 The word “HHA” means Hialeah Housing Authority, a political subdivision of the State of Florida.
- 1.2.4 The words “Proposer,” “Submitter,” or “Respondent” mean the person, firm, entity, or organization submitting a response to this Solicitation.
- 1.2.5 The words “Scope of Services” or “Scope of Work” mean Section 2.0 of this Solicitation, which details the work to be performed by the Contractor or Consultant.
- 1.2.6 The word “Section 3” means Section 3 of the Housing and Urban Development Act of 1968 and the implementing regulations in 24 Code of Federal Regulations (CFR) Part 75, as amended by interim rule published on May 31, 1995 (60 FR 28325).
- 1.2.7 The word “Solicitation” means this Request for Proposal (RFP) or Request for Qualification (RFQ), or Request for Information (RFI) document and all associated addenda and attachments.
- 1.2.8 The words “Subcontractor” or “Sub consultant” means any person, firm, entity, or organization, other than the employees of the Contractor, who contracts with the Contractor to furnish labor, or labor and materials, in connection with the



Work or Services to the HHA, whether directly or indirectly, on behalf of the Contractor.

- 1.2.9 The word “HUD” means the United States Department of Housing and Urban Development.
- 1.2.10 The words “Work,” “Services,” “Program,” “Project,” or “Engagement” mean all matters and things that will be required to be done by the Contractor in accordance with the Scope of Services and the terms and conditions of this Solicitation.
- 1.2.11 The word “Work Order” means a document that defines and describes the parameters of individual projects assigned or awarded by the HHA to the Contractor in accordance with the terms of the Contract.

1.3 The Agency’s Reservation of Right

- 1.3.1 Right to Reject, Waive, or Terminate the RFP. Reject any or all proposals, waive any informality in the RFP process, or terminate the RFP process at any time if deemed by the Agency to be in its best interests.
- 1.3.2 Right to Not Award. Not to award a contract pursuant to this RFP.
- 1.3.4 Right to Terminate. Terminate a contract awarded pursuant to this RFP at any time for convenience upon thirty (30) days written notice to the successful proposer(s).
- 1.3.5 Right to Determine Time and Location. Determine the days, hours, and locations where the successful proposer(s) shall provide the services in this RFP.
- 1.3.6 Right to Retain Proposals. Retain all proposals submitted and not permit withdrawal for a period of 60 days subsequent to the deadline for receiving proposals without the written consent of the Agency Contracting Officer (CO).
- 1.3.7 Right to Negotiate. Negotiate the fees proposed by the proposer entity.
- 1.3.8 Right to Reject Any Proposal. Reject and not consider any proposal that does not meet the requirements of this RFP, including but not necessarily limited to incomplete proposals and/or proposals offering alternate or non-requested services.
- 1.3.9 No Obligation to Compensate. Have no obligation to compensate any proposer for any costs incurred in responding to this RFP.



- 1.3.10 Right to Prohibit. At any time during the RFP or contract, the process to prohibit y further participation by a proposer or reject any proposal submitted that does not conform to any of the requirements detailed herein.
- 1.3.11 Right to Reject – Obtaining Competitive Solicitation Documents. By submitting a response to this RFP, the respondent affirms that he/she obtained all information regarding the RFP. Any other group such as an association or a bid depository that informs potential respondents of the availability of such competitive solicitations is hereby instructed not to distribute these documents to any such potential respondents but to instruct the potential respondents to visit our website to obtain the documents or contact us for further assistance.

1.4 Proposal Submission

All proposals must be submitted on 8 1/2" X 11" paper, neatly typed on one side only, with standard margins and spacing. The original document package must not be bound; the document package copies should be individually bound. An unbound one-sided original and five bound copies (a total of 6) of the complete proposal, including both the technical and price proposals, must be received by the deadline for receipt of the proposal. The original, all copies, must be submitted in a sealed envelope or container stating on the outside the Proposer's name, address, telephone number, the RFP number (if applicable), RFP title, and Proposal Due Date to:

**REQUEST FOR PROPOSALS (RFP) FOR
Elevator Preventive Maintenance Services
Board of Commissioners
Attention: Maria Maury, Purchasing Officer
Hialeah Housing Authority
75 East 6th Street
Hialeah, Florida 33010**

**PROPOSAL DUE DATE
March 13th, at 11:00 AM
(Eastern Standard Time)**

If hand-delivered may be submitted to the above address only between 8:30 a.m. and 5:00 p.m., Mondays through Fridays. Additionally, the HHA is closed on holidays observed by the federal government. Proposers are responsible for informing any commercial delivery service, if used, of all delivery requirements and for ensuring that the required address information appears on the outer wrapper or envelope used by such service.

The HHA may, at its sole and absolute discretion, reject any and all or parts of any or all responses; accept parts of any and all responses; further negotiate project scope and fees;



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postpone or cancel at any time this Solicitation process, or waive any irregularities in this Solicitation or in the responses received as a result of this process. A proposal shall be the Proposer's firm commitment to provide services solicited in the manner requested in the Solicitation and described in the proposal. If a Proposer wishes to take exception to any of the terms of this Solicitation, the Proposer shall indicate the exception in its proposal. No exception shall be taken where the Solicitation states exceptions may not be taken. The HHA reserves the right to request and evaluate additional information from any respondent regarding the respondent's responsibility after the submission deadline, as the HHA deems necessary.

Proposers are hereby notified that all information submitted as part of or in support of their proposals will be available for public inspection after the opening of proposals, in compliance with Chapter 119, Florida Statutes, popularly known as the "Public Record law". The Proposer shall not submit any information in response to this Solicitation, which the Proposer considers to be a trade secret, proprietary or confidential. The submission of any information to the HHA in connection with this Solicitation shall be deemed conclusively to be a waiver of any trade secret or other protection which would otherwise be available to the Proposer. If the Proposer submits information to the HHA in violation of this restriction, either inadvertently or intentionally, and identifies that information in the proposal as protected or confidential, the HHA may, in its sole discretion, either (a) communicate with the Proposer in writing in an effort to obtain the Proposer's written withdrawal of the confidentiality restriction or (b) endeavor to redact and return that information to the Proposer as quickly as possible, and if appropriate, evaluate the balance of the proposal. Under no circumstances shall the HHA request the withdrawal of the confidentiality restriction if such communication would, in the HHA's sole discretion, give such Proposer a competitive advantage over other proposers. The redaction or return of information pursuant to this clause may render a proposal non-responsive.

1.4.1 Additional Information/Addenda

Requests for additional information or clarifications must be made in writing and received by the HHA's Contracting Officer for this RFP no later than the deadline for receipt of questions specified in the RFP. The request must contain the RFP number and title, the Proposer's name, the name of the Proposer's contact person, address, phone number, and e-mail.

The HHA will issue responses to inquiries and any other corrections or amendments it deems necessary in written addenda issued prior to the Proposal Due Date. Proposers should not rely on any representations, statements, or explanations other than those made in this RFP or in any written addendum to this RFP. Where there appears to be a conflict between the RFP and any addenda issued, the last addendum issued shall prevail.

It is the Proposer's responsibility to assure receipt of all addenda. The Proposer should verify with the designated Special Project Administrator prior to submitting a proposal that all addenda have been received.

Proposers who obtain copies of this RFP from sources other than the HHA's Special Project Administrator risk the potential of not receiving addenda since their names will not be included on the Vendor List for this particular RFP. Such Proposers are solely responsible for those risks.

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1.5 Modified Proposals

A Proposer may submit a modified proposal to replace all or any portion of a previously submitted proposal up until the Proposal Due Date. The Evaluation/Selection Committee will only consider the latest version of the proposal.

1.6 Withdrawal of Proposals

Only Withdrawals or corrections of inadvertently erroneous bids may be permitted, where appropriate, before bid opening by written notice received in the office designated in the invitation for bids twenty-four (24) hours prior to the time set for bid opening. After the bid opening, a low bidder alleging a nonjudgmental mistake may be permitted to withdraw its bid if the mistake is evident on the face of the bid document or the bidder submits convincing evidence that a mistake was made. After bid opening, corrections in bids, changes in bid prices, or other provisions of bids shall not be permitted.

1.7 Late Proposals and Late Modifications

The HHA, at its sole discretion, may not accept bids and/or proposals received after the scheduled time and date noted in this solicitation. Sealed bids/proposals will be opened promptly at the time and place specified. The responsibility for submitting a sealed bid/proposal on or before the stated time and date is solely and strictly the responsibility of the Bidder/Proposer. HHA is not responsible for delays caused by any mail, package, or courier service, including the U.S. Mail, or caused by any other occurrence. Modifications received after the Proposal Due Date are also late and will not be considered.

1.8 RFP Postponement/Cancellation

The HHA may, at its sole and absolute discretion, reject any and all or parts of any and all proposals; re-advertise this RFP; postpone or cancel, at any time, this RFP process; or waive any irregularities in this RFP or in the proposals received as a result of this RFP.

1.9 Costs Incurred by Proposers

All expenses involved with the preparation and submission of proposals to the HHA, or any work performed in connection therewith, shall be borne by the Proposer(s). No payment will be made for any responses received or for any other effort required of or made by the Proposer prior to the commencement of work as defined by a contract executed by HHA.

1.10 Exception to the RFP

Proposers may take exceptions to any of the terms of this RFP unless the RFP specifically states where exceptions may not be taken. All exceptions taken must be specific, and the Proposer must indicate clearly what alternative is being offered to allow the HHA a meaningful opportunity to evaluate and rank proposals and the cost implications of the exception (if any).

Where exceptions are taken, the HHA shall determine the acceptability of the proposed exceptions. The HHA, after completing evaluations, may accept or reject the exceptions. Where exceptions are rejected, the HHA may insist that the Proposer furnish the services described herein or negotiate an acceptable alternative.

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All exceptions shall be referenced using the corresponding Section, paragraph, and page number in this RFP. However, the HHA is under no obligation to accept any exceptions. The HHA will assume that the Proposer will accept all terms and conditions if no exception is stated.

1.11 Proprietary/Confidential Information

Proposers are hereby notified that all information submitted as part of, or in support of, proposals will be available for public inspection after the opening of proposals, in compliance with Chapter 119, Florida Statutes, popularly known as the "Public Record Law."

The Proposer shall not submit any information in response to this solicitation, which the Proposer considers to be a trade secret, proprietary or confidential. The submission of any information to the HHA in connection with this solicitation shall be deemed conclusively to be a waiver of any trade secret or other protection that would otherwise be available to the Proposer. If the Proposer submits information to the HHA in violation of this restriction, either inadvertently or intentionally, and clearly identifies that information in the proposal as protected or confidential, the HHA shall endeavor to redact and return that information to the Proposer as quickly as possible, and if appropriate, evaluate the balance of the proposal. The redaction or return of information pursuant to this clause may render a proposal non-responsive.

1.12 Rules, Regulations, and Licensing Requirements

The Proposer shall comply with all laws, ordinances, and regulations applicable to the services contemplated herein, especially those applicable to conflict of interest and collusion. Proposers are presumed to be familiar with all Federal, State, and local laws, ordinances, codes, rules, and regulations

that may in any way affect the goods or services offered, including, but not limited to:

- a) Section 3 of the Housing and Urban Development Act of 1968 and the implementing regulations in 24 Code of Federal Regulations (CFR) Part 75, as amended by interim rule published on May 31, 1995 (60 FR 28325).
- b) Executive Order 11246 "Equal Employment Opportunity," as amended by Executive Order 11375 and as supplemented in Department of Labor regulations (41 CFR Chapter 60), as well as the Americans with Disabilities Act of 1990 and implementing regulations, the Rehabilitation Act of 1973, as amended, Chapter 553 of Florida Statutes and any and all other local, State and Federal directives, ordinances, rules, orders, and laws relating to people with disabilities.
- c) Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR Part 6).
- d) HUD's reporting requirements and regulations, as specified in the Grant Agreement and required of the Owner.



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- e) All applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1857(h)), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15).
- f) Compliance with Executive Order 12549 “Debarment and Suspension,” which stipulates that no contract(s) are “to be awarded at any tier to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs.
- g) Mandatory standards and policies related to energy efficiency, which are contained in the State of Florida energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).
- h) HUD procurement regulations as set forth in 24 C.F.R. Part 2 and 24 CFR Part 963.
- i) The prohibitions against discrimination on the basis of disability under Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and regulations issued pursuant thereto (24 CFR Part 8); The Americans with Disabilities Act (42 U.S.C. 12101 et seq. and its implementing regulation at 28 CFR Part 36; and the Architectural Barriers Act of 1968, as amended (42 U.S.C 4151) and regulations pursuant thereto (24 CFR Part 40).

1.13 Negotiations

The HHA may award a contract based on initial offers received without discussions. Therefore, each initial offer should contain the Proposer's best terms from a monetary and technical standpoint.

The HHA reserves the right to enter into contract negotiations with the recommended Proposer. Negotiations shall be conducted with the top-ranked Offeror. If the HHA and the top-ranked Offeror cannot reach an agreement that is in the best interest of the HHA, the Contracting Officer may select to cancel negotiations with the top-ranked Offeror and move to the second-ranked Offeror. If the HHA and the recommended Proposer cannot negotiate a successful contract, the HHA may terminate said negotiations and begin negotiations with another recommended Proposer. This process will continue until a contract acceptable to the HHA has been executed, or all proposals are rejected. No Proposer shall have any rights against the HHA arising from such negotiations or termination thereof.

1.14 Review of Proposals for Responsiveness

Each proposal will be reviewed to determine if the proposal is responsive to the submission requirements outlined in the RFP. A responsive proposal follows the requirements of the RFP, includes all documentation, is submitted in the format outlined in the RFP, is of timely submission, and has the appropriate signatures as required on each document. Failure to comply with these requirements may result in a proposal being deemed non-responsive.



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1.15 Potential Price Escalation

There shall be no escalation of costs pertaining to the Elevator Preventive Maintenance Services costs during the first year of the ensuing contract periods. During contract years two through five (if the Agency awards such options), there may be an increase in such hourly fee awarded by negotiation based upon any increase to the Producer Price Index (PPI) Elevator Preventive Maintenance Services (pursuant to the most pertinent PPI within the Management Consulting Services classification, “most pertinent” as determined by the Agency). **For example**, if, at the end of the first contract period, the listed prevailing wage rates increase 5% as compared with the listed rates on the date of contract execution, then the Contractor will, at the CO’s discretion, be entitled to a 5% increase in the labor rates that he/she submitted in response to this RFP. Similarly, the end date of the previous contract period shall be the baseline date to determine the previously listed wage rate for ensuing years.

1.15.1 **Notification Must Be Received from the Contractor.** The Contractor must notify the CO, in writing, of such desired escalation at least 60 days prior to the end of the noted contract period(s). Such escalations may occur no more than once in any 12-month period without the express written consent of the CO.

1.15.2 **Right to Reject.** The Agency reserves the right to reject any such request for an increase in fees if the Agency feels doing so is in its best interests. Similarly, the successful bidder has the right to terminate services if the Agency rejects the request for an increase. This will occur in the following manner (procedure):

1.15.2.1 **Step No. 1.** The successful bidder submits his/her written request for an increase, accompanied by the required documentation, to the Agency CO within the required 60-day period.

1.15.2.2 **Step No. 2.** The Agency considers the requested increase and, within ten days of receipt of such, issues a written response to the successful bidder as to if the request is approved or rejected;

1.15.2.3 **Step No. 3.** If rejected and the successful bidder wishes to, as a result, cease providing the services to the Agency, the successful bidder has ten days from the receipt of the written notice of rejection to deliver to the Agency CO a written notice that he/she is hereby invoking his/her right to discontinue the services within 120 days of the date this notice was delivered to the Agency (the specific date 120-days hence shall be written within the notice);



- 1.15.2.4** Step No. 4. The Agency will then endeavor to ensure that the Agency makes other arrangements to replace the successful bidder (e.g., contract with another firm; do the services in-house; etc.) as the Contractor for the applicable services; further, if the Agency completes such other arrangements prior to the aforementioned 120-day date, the Agency shall retain the right to deliver to the original successful bidder, a 10-day written notice to cease services (meaning, the 120-day period is a maximum additional contract period that the Agency may, at its discretion, shorten with such written notice).

1.16 Prior Agency Approval Required.

Please note that the successful awarded bidder shall NOT conduct any additional work without the prior written authorization of the Agency representative (via delivery of a Work Order, which may take the form of an e-mail). Failure to abide by this directive shall release the Agency of any obligation to pay the successfully awarded bidder for any work conducted without the noted prior written authorization.

1.17 No Deposit/No Retainer.

The Agency will NOT pay any deposits or retainer fees as a result of an award of the ensuing contract. This means the Agency will pay the successful proposer(s) for actual hours worked only. The Contractor will be required to submit a full back-up detail of all hours worked, listed by no less than the “15-minute” standard.

2.0 SCOPE OF SERVICES

The following scope of services is included as a guide for the proposer. The selected respondent shall perform all the duties and responsibilities requested on this RFP.

The Chosen Contractor shall provide the management, supervision, and workforce necessary to provide the Elevator Preventive Maintenance Services, and all work shall be performed in a professional and quality manner. All new Properties added to Elevator Preventive Maintenance Services should be added at the same rate as on the current contract.

Hialeah Housing Authority Elevators for the Preventive Maintenance Services are listed on Page # 14-15

2.1. General Conditions

The Maintenance Director shall act as the Owner's representative on matters pertaining to the Preventive Maintenance work. He shall interpret the specifications, review technical details and procedures and inspect the work for compliance with the specifications. All work shall be performed and completed in a good and workmanlike manner and to Owner's satisfaction and all work and material required for the performance of the preventive maintenance and pre-

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maintenance repairs shall strictly conform to the specification. Any work or material necessary to and usually included in the performance of the preventive maintenance tasks shall, together with all such incidental services and processes as are usual and proper in the performance of such work, be furnished by contractor as a part of the work without any extra charge.

The elevator contractor, at owner's request, at any time and either verbally or in writing as owner directs, will report to owner on the progress of the preventive maintenance work. Also, will attend meetings of such places and at such times as owner shall request for the purpose of reporting to owner on the progress of the preventive maintenance and/or repair work and/or discussion of its relation to the progress of any other work being performed in or for the premises.

Codes and Ordinances: All the work covered by these specifications is to be done in full accordance with the Federal State and Local Codes, ordinances and elevator safety orders as are in effect at the time of the execution of the contract. All of the requirements of the Government authorities are to be fulfilled by the Contractor and his subcontractors. Work on all elevator equipment, shall be in accordance with the latest edition and supplements of the American National Standard Safety Code for Elevators, Dumbwaiters, Escalators and Moving Walks, ASME A17.1, the National Electrical Code (NFPA 70), and the requirements set forth by the State of Florida, local (i.e.: County or City) authority.

2.2 Additional Requirements

A. Permits: The Contractor shall obtain and pay for any municipal and state permits necessary for execution of the Preventive Maintenance Agreement.

B. Protection of Work and Property: The Contractor shall continuously maintain adequate protection of all his work from damage and shall protect the Owner's property from injury or loss arising out of this contract. The Contractor shall make good any such damages, injury or loss, except such as may be directly caused by agents or employees of the Owner. The Contractor shall provide all barricades required to protect open hoist ways or shafts per OSHA regulations.

C. Storage of Materials: Contractor shall supply the Owner and their representative with the MSDS information on all hazardous material that is used and stored in the building. Contractor shall confine storage of materials on job site to limits approved by the Owner's Representatives and shall not unnecessarily encumber the premises or overload any portion with materials to a greater extent than the structure design load.

D. Removal of Equipment and Rubbish: The Contractor shall remove all rubbish, waste oil, grease, dirty rages, etc are to be removed from the building immediately after any service calls, maintenance or repairs keeping the building and premises clean during the progress of the work and leave the premises in perfect condition, as far as his work is concerned, to the Owner's Representative's complete satisfaction.

E. Cartage, Hoisting, and Equipment Installation: All elevator equipment installed under this contact shall be delivered to the job site and if necessary hoisted into place by the Contractor.



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F. Materials and Workmanship: All materials and equipment furnished for the preventive maintenance and /or repairs shall be new and the best of their respective kinds. Installation shall be in a neat, accurate, workmanlike manner and be subject to the approval of the Hialeah Housing Authority. All materials and equipment furnished shall conform to the regulations of the bodies having jurisdiction and installation shall conform to the regulations of the bodies having jurisdiction over such installation.

2.3. Duties of Contractor

_____ Elevator Company (hereinafter called the Elevator Contractor) shall furnish services to Hialeah Housing Authority, (hereafter called the Owner) at 75 East 6th Street, Hialeah, Florida 33010 in accordance with the terms and conditions specified herein on the following elevator equipment: SEE SCHEDULE "A,

- A. The entire elevator System shall be maintained as hereinafter described, in accordance with the following detailed terms: Trained employees of the contractor will use all reasonable care to keep the systems in proper adjustment and in safe operating condition, in accordance with all applicable codes, ordinances and regulations.
- B. With respect to all units monthly systematic examinations, repairs, replacements, adjustments, cleaning and lubrication of all machinery, machinery spaces, hoistway and pits.
- C. With respect to all units, the contractor shall maintain all parts of the elevators consisting of, but not limited to machines, motor, generators, brushes, controllers, selectors, worn gears, gears, thrust bearings, brake magnet coils or brake motors, brake shoes, windings, rotating elements, contacts, coils, resistance for operating motor circuits, magnet frames, leveling devices, cams, car hoistway door hangers, tracks, closures and guides, door operating devices and door motors, safe edge detectors, push buttons, indicators, hall lanterns, solid state and microprocessor component systems, auxiliary rotating equipment, timing devices, computer devices, power drives, communication systems, cab ventilation fans, electrical wiring complete, door protection, emergency lighting, hydraulic equipment complete including tanks, manifolds, valves, screens, filters, pumps, belts, fittings, above ground piping and supports, packing, 'O' rings cylinder head assemblies, pistons, motors, belts, pulleys, and safety systems complete on all elevators.
- D. With respect to all units, all work, including regular examinations and repairs in accordance with this contract are to be made during the hours of 8:00 a.m. to 4:30 p.m., excluding normal holidays of the elevator industry, Monday through Friday.



- E. The contractor shall not be under any obligation hereunder to make any repairs or replacements, except, those incidentals to the normal wear, tear and operation of the equipment. With respect to all units, it is mutually agreed that the contractor shall make any and all repairs or replacements damaged by contractor's improper repair, negligent or willful acts or omissions. Contractor shall provide all necessary labor for required maintenance procedures and repairs over and above specified assigned or scheduled labor to properly service systems without extra charge to Owner.
- F. With respect to all invoicing for any work outside the agreement they shall include the
- (1) date and type of service performed,
 - (2) when appropriate the elevator number, the cost associated with the service performed defining worked, premium and travel hours expended,
 - (3) a list of calls for service and corrective actions performed upon request of owner for a particular invoice.
 - (4) For all repair invoices the Contractor must provide
 - a. Name of Caller
 - b. Time & date
 - c. Reason/ Status
 - d. Name Printed and Signed ticket by Housing Authority Representative.
- G. With respect to scheduled repairs the contractor shall confirm in writing and fax, within 24 hours of the repair confirmation the work shall proceed on the date scheduled. The fax message shall be sent to the Hialeah Housing Authority.
- H. In the event of non performance on behalf of _____ Elevator Company, purchaser shall have the right to terminate this Contract with ninety (90) days written notice, provided, however, that _____ Elevator Company is given (30) thirty days to remedy the non performance. _____ Elevator Company must be notified in writing of the specific areas of non-performance.
- I. With respect to any service performed the contractor is required to maintain a log sheet, that will be kept in a designated location of the Owner's Representative's choice, each time they (the contractor's employee(s)) are on the premise. Written memos from the building regarding any work requested shall be maintained at this location for the Contractor's employee(s) action.
- J. With respect to material safety data sheets prior to commencement of work, and in accordance with the Florida State Right To Know Law, the Official Codes of the State of Florida and the OSHA Hazard Communication Standard, contractor is required to provide the Owner, within fifteen (15) days following notification of recommendation to award the work under this specification, a list of chemicals and copies of Material Safety Data Sheets (MSDS) for any chemicals that will be used or stored on Owner's property. A purchase order will not be issued unless the contractor is in compliance with the provisions in this section.



Minimum Mechanic Preventive Maintenance Hours

It is agreed that a mechanic will be available on site in accordance with the hours outlined accordingly in Schedules “A”, attached to perform preventive maintenance. Problem callbacks and repair labor are not considered preventive maintenance. It is understood that such minimum service hours do not limit labor required to maintain the equipment in an operating condition of excellence.

2.4. Emergency Callback Service

- A. Provide emergency call-back service which consists of promptly dispatching qualified employees in response to a request, from the owner or their representative by telephone or otherwise, for emergency adjustments or repairs on any day of the week, at any hour, day or night. Emergency repairs shall be made within two (2) hours to restore the equipment to operating order. If repairs cannot be made immediately, the mechanic shall notify the Hialeah Housing Authority as to the reason why.
- B. All hours, the elevator contractor shall provide a maximum of One (1) hour response time, from the time of request, for passenger entrapments or group failures. This includes holidays and weekends.
- C. All hours, the elevator company, shall provide a maximum of Two (2) hour response for calls involving other problems.
- D. If the response time is greater than One (1) hour for entrapments or group problem calls and Two (2) hour for other problems, the owner has the right to a) have the elevator contractor defend any elevator related suit that may arise out of his failure to respond in the prescribed time and b) failure to comply with the aforementioned, at the Owners sole discretion, shall be cause for immediate termination without notice.
- E. If required, at Owner's expense, on four (4) hours notice (request to be made during normal working hours), the contractor shall provide a standby mechanic at. any time.

2.5 Labor Rates

Contractor shall furnish, as part of this specification, current standard labor billing rates. Premium time will be the un-worked hours include all indirect costs.

Position	Regular Rate	Overtime Rate
Mechanic	\$_____.	\$_____.
Helper	\$_____.	\$_____.
Adjuster	\$_____.	\$_____.
Team (Mech.&- Helper)	\$_____.	\$_____.



2.6 Overtime Labor

Scheduled repairs, preventive maintenance and/or adjustment procedures necessitating removal of an elevator for extended period of time must be scheduled through the owner. The owner retains the right to have such work completed during overtime hours with the understanding the contractor shall pay for the regular labor portion and the owners extraordinary obligation is premium labor costs only which is, for the purpose of establishing a billing rate, the direct cost of the un-worked hours paid plus 10% for burden. The contractor's Premium Only Cost of labor is \$_____. per mechanic hour on _____. When damage to the equipment is due to negligence on the part of the contractor, the overtime portion will be the responsibility of the contractor.

For emergency repairs or adjustment procedures the owner retains the right to have such work completed during overtime hours with the understanding the contractor shall pay for the regular labor portion and the owners extraordinary obligation is premium labor costs only which is, for the purpose of establishing a billing rate, the direct cost of the un-worked hours paid plus 10% for burden.

2.7 Testing - All Units

- A. The contractor shall examine, monthly, all safety devices and governors and conduct annual no-load test and pressure test, two year test, three year test, and five-year full load/speed test of the safety mechanism, overhead speed governors, car and counterweight buffers in accordance with ANSI - A1 7.2 procedures. Additionally, during these tests, the car balances will be checked and the governor recalibrated and sealed for proper tripping speed.
- B. The contractor will be responsible for filing all the necessary documents with the all governmental authorities for the annual, two-year and five-year tests as it applies to the repair portion of this specification.
- C. The contractor shall be responsible for the any filing fee requirements of the governmental authorities as it applies to the Repair portion of this specification.
- D. The contractor will perform a QUARTERLY test of the elevator Fire Safety System, i.e., manual recall and firemen's elevator operation on the designated elevators at their cost.
- E. Results of all tests shall be presented to the property management.

2.8 Lubrication

The contractor shall lubricate monthly (12 times per year at regularly scheduled intervals) all of those mechanical parts recommended to be lubricated by the original



manufacturer of the elevator equipment or to otherwise lubricate as often as and in the manner specified by said manufacturer.

2.9. Testing - All Units

- A. The contractor shall examine, monthly, all safety devices and governors and conduct annual no-load test and pressure test, two year test, three year test, and five-year full load/speed test of the safety mechanism, overhead speed governors, car and counterweight buffers in accordance with ANSI - A1 7.2 procedures. Additionally, during these tests, the car balances will be checked and the governor recalibrated and sealed for proper tripping speed.
- B. The contractor will be responsible for filing all the necessary documents with the all governmental authorities for the annual, two-year and five-year tests as it applies to the repair portion of this specification.
- C. The contractor shall be responsible for the any filing fee requirements of the governmental authorities as it applies to the Repair portion of this specification.
- D. The contractor will perform a QUARTERLY test of the elevator Fire Safety System, i.e., manual recall and firemen's elevator operation on the designated elevators at their cost.
- E. Results of all tests shall be presented to the property management.

2.10. Lubrication

The contractor shall lubricate monthly (12 times per year at regularly scheduled intervals) all of those mechanical parts recommended to be lubricated by the original manufacturer of the elevator equipment or to otherwise lubricate as often as and in the manner specified by said manufacturer.

2.11. Cleaning Materials

Cleaning components, wiping cloths and other materials are to be supplied by the contractor, it being understood and agreed that cleaning agents employed shall not be flammable nor noxious and must always be stored in approved metal containers, in Local Fire Department fire-rated cabinets provided by the contractor. Owner to approve all containers and locations.

2.12. Cleaning



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Contractor shall, during the course of all examinations, remove and discard immediately, all accumulated dirt and debris from the elevator machine rooms and pit areas. All elevator equipment located in the elevator machine room will be vacuumed monthly. Immediately upon the signing of this agreement and six months prior to the contract anniversary date, as a minimum, the contractor shall clean the elevator hatch equipment including, but not limited to rails, inductors, hoist way, hangers and tracks, relating devices, switches, buffers, car tops, safety devices and frames.

2.13. Painting

The contractor shall keep the exterior of the machinery and any other parts of the equipment subject to rust properly painted, identified per code and presentable at all times. Motor windings, microprocessor components and controller coils shall be annually treated with proper insulating/cleaning compound. All elevator machine room floors, equipment and storage areas shall be painted on commencement of this contract and annually thereafter with a good quality floor enamel.

2.14. Performance Requirements.

All control systems shall be maintained to provide smooth acceleration and retardation. Contractor must maintain elevators in accordance with the standards of performance as herein prescribed. Elevators shall be adjusted to meet these performance requirements:

- A. Lobby to dispatch time - adjustable to sixty (60) seconds; set to Twenty-five (25) seconds subject to loading, system programming and demand factors.
- B. Non-interference - (stop for car call) - adjustable to ten (10) seconds; set to AI 7.1 and all handicap standards minimum of three (3) seconds.
- C. Non-interference (stop for corridor call) - adjustable to twenty (20) seconds; set to AI 7.1 and all handicap standards (including the Americans with Disabilities Act of 1990) minimum based on distance and five (5) second advance audible signal provisions.
- D. Reduced non-interference time (short door dwell after interruption of safe edge beam and re-Establishment of safety provision) - adjustable to ten (10) seconds; set to one half (1/2) second.
- E. Door closing pressure shall be adjusted for a maximum of <30 kinetic pounds per Code.
- F. Operating speed +/- 5% of the rated speed in both directions of travel under load and no load conditions.
- G. Floor stop landing under varying load conditions shall be accurate within 1/4", for all units with a sill to sill to commencement of door opening cycle with machine brake mechanically set. (No pre-door opening during deceleration mode will be accepted.)



- H. Re-leveling of cars to compensate for varying rope stretch caused by loading or unloading shall commence within the 5/8" of the landing zone (above or below) with the doors in the open position. The leveling action shall be smooth and not perceptible.

2.15. Spare Parts

The contractor shall provide and maintain a supply of contacts, coils, solid-state boards, PC Boards and associated components, leads, brushes, lubricants, wiping cloths, rollers, guides, switches, and other minor parts for each elevator in each machine room for the performance of routine preventative maintenance. AR spare parts shall be kept in storage cabinets provided by the contractor and approved by the owner. Contractor shall supply trash and oily rag containers in each elevator motor room.

All other components required maintaining and correct problems must be available within a reasonable time.

Notice By Authority or Company To Repair or Replace

The contractor shall comply in an expeditious time frame with all written recommendations of the building management, independent inspectors, consultants, and insurance carriers employed by the Owner for repairs or preventive maintenance as covered herein. The contractor shall furnish, within 5 working days, the list of discrepancies discovered with a schedule for corrective work.

The contractor is required to be completed with all work within 30 days unless otherwise agreed to by the Owner. Items, which are not covered within this document, shall be presented in a form proposal with an estimated labor and material necessary to complete the item.

2.16. Repair or Replacement Exclusions

The contractor is not required under this contract to install new attachments on the elevators or parts other and different from those now constituting the equipment, as recommended or directed by insurance companies, Government Authorities, or otherwise. The equipment to be replaced will be from the original manufacturer or better.

2.17. Records

- A. With respect to all units, a complete perpetual record of inspections, maintenance, lubrication, callback service, and tests for each unit under service will be kept in the appropriate machine room.
- B. Upon request of the owner, the contractor shall submit with each Building's invoice the perpetual records of preventive maintenance, major repairs and passenger entrapments and callback records.
- C. Failure to submit the required records with an invoice could cause delay of payments.



2.18. Diagrams

The Elevator Company will provide wiring diagrams (2 copies) for such that are currently in its possession. All diagrams currently not owned by the Contractor will be provided by the owner.

2.19. OWNER'S RIGHTS

Contractor shall, at any time during the term of this contract, upon written request of the owner or their representative, render a report of inspections, repairs, or replacements made by the contractor at the premises herein, itemized as to parts installed or services performed and supply samples of lubricants, compounds, or other materials employed.

The Contractor shall provide upon the request of the Owner;

- A. A written summary or computer printout of the service records for any period requested.
- B. A representative to meet with the Owner's representative when requested. Failure to comply with any provision in this section to the Owner's satisfaction is caused for termination of the contract without notice.

2.20 Sole Responsibility

The maintenance work shall be performed only by elevator technicians directly employed and supervised by the contractor, who are experienced and skilled in maintaining automatic group control elevators similar to those to be maintained under this contract and shall not be assigned or transferred to any agent or subcontractor. Repair work procedures shall be by another team, not the assigned maintenance mechanics. Concurrent work of maintenance and repairs are not allowed. Separate invoices and work tickets must be submitted.

2.21. Repairs, Renewals and Replacements

Repairs, renewals, and replacements shall be made by the contractor as soon as examinations reveal the necessity. It being understood and agreed that repairs, renewals, and replacements shall be made in accordance with high standards of preventative maintenance practice and that the repair and renewals of parts made shall be equal in design, workmanship, quality, finish fit, adjustment, operation and appearance to the original installation and that replacement shall be new and genuine parts equal to those parts supplied by the manufacturer of the original elevator equipment or its successor, and shall apply to the repairs, renewal or replacement of all mechanical, electronic and electrical parts, including but not limited to the following:

- A. Automatic power-operated door systems, car door hanger, car door contact, door protective device, load-weighing equipment. Car-safety mechanism, platform, flooring, tile flooring covering (flooring if damaged caused, either directly or indirectly, by the contractor or any agents of the contractor) in the elevator car, elevator car guide shoes, gibs or rollers and accessories.



- B. Machine, worm gear, gear, thrust-bearing, drive sheave, drive sheave shaft-bearings, brake pulley, brake coil, brake contact, shoes and linings, components part and all associated castings.
- C. Motor, motor generator, motor windings, rotating element, commutator, field coil, brushes, brush holders, bearings, rotors, starters, slip rings, solid-state power drives complete and an associated apparatus, speed-monitoring equipment and attachments.
- D. Controller, selector, and dispatching equipment, all relays, solid-state components, resistors, condensers, transformers, contact leads, dashpots, timing devices, computer devices, insulators, solenoids, resistance grids, and mechanical and electrical driving equipment, diagnostics, trouble-shooting tools, monitors, and associated apparatus.
- E. Governor, governor sheave and shaft assembly, bearings, contacts, assemblies.
- F. Deflector or secondary sheave, bearings, car and counterweight buffers, car and counterweight guide rails, top and bottom limit switches, governor tension sheave assembly, counterweight and counterweight guide shoes including rollers or gibs.
- G. Hoist way door interlocks, hoistway door tracks and hangers, bottom-door guides, and auxiliary door-closing devices, hoistway landing, leveling, and encoding systems complete.

In-car direction indicators, main lobby fixtures, main and auxiliary car operating panels, car position indicators, electric door operators, safety edges and photo eyes, LED driven safe edges devices and auxiliary audible/visible signals and controls, complete emergency power panels, communication devices and signaling equipment.
- I. With respect to all units, contractor shall be responsible for re-lamping all lighting fixtures in the pit, machine room, and hoistway (excluding cab lighting) as required providing the owner provides bulbs during normal preventative maintenance visits.
- J. The contractor shall examine and equalize tension on all hoisting, compensating, and governor ropes and renew them whenever necessary to insure the maintenance of adequate safety factor. The contractor shall also shorten all ropes as required to maintain legal bottom clearances.
- K. Contractor shall repair and/or replace all electrical wiring and conductors extending to the elevators from mainline switch in the machine room.
- L. Oil hydraulic tanks, manifolds, valves, screens, filters, pumps, belts, fittings, aboveground piping and supports, packing, "O" rings, cylinder head assemblies, pistons, and isolation equipment.



2.22. EXCLUSIONS

The following items of elevator equipment are excluded: car enclosure (including removable panels, suspended ceiling, fight diffusers, etc.), car door panels, hoistway enclosures, hoistway door panels, door frames and sills, fluorescent light tubes, car frame and the mainline switch, together with fuses for same, hydraulic elevator jack outer casing, and underground piping, and guide rail realignment due to building settlement or compression.

2.23 Price Adjustment and Term

The term' of this contract shall be for a period of one (1) year. The owner at its sole option may renew the contract annually thereafter on a year-to-year basis up to five years. There will be no price adjustment shall be allowed during the term of this agreement. If the owner elects to renew the contract with the incumbent contractor, the contractor shall have the right to adjust the price based upon the percentage increase or decrease in the straight-time hourly rate for elevator maintenance employees for the year prior to the expiration of the contract. The term "straight-time hourly rate" shall equal the actual hourly rate paid to the elevator maintenance employees' plus the fringe benefits granted in lieu of or in addition to hourly rate increases. The contractor shall submit documentation of the rate adjustment and rate increase. The maximum allowable increase will be Three and One-Half percent annually.

3.0 RESPONSE REQUIREMENTS

3.1 Instructions to Proposers

Proposers should follow the format and instructions outlined below, observing format requirements where indicated. All materials (except for plans and schematics, if any) are to be submitted on 8 1/2" X 11" pages, neatly typed on one side only, with standard margins and spacing. All documents and information must be fully completed and signed as required. The original document package must not be bound. The document package copies should be individually bound. Proposals that do not include the required documents may be deemed non-responsive and may not be considered for contract award.

3.2 Contents of Proposal

The proposal shall be written in sufficient detail to permit the HHA to conduct a meaningful evaluation of the proposed services. However, overly detailed responses are not requested or desired.

The proposer must supply the following information:

- 3.2.1 Demonstrated understanding of the services to be provided and technical approach
- 3.2.2 Qualifications/Experience of the company's and individual(s) performing



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- the services
- 3.2.3 Professional references
- 3.2.4 Proposed Index Prices (“fill Form “Cost Evaluation Criteria)
- 3.2.5 HUD Form - 5369-B
- 3.2.6 HUD Form-5369-C
- 3.2.7 HUD Form-5370-C
- 3.2.8 Section 3 Forms
- 3.2.9 Non-Collusive Affidavit

3.3 Proposal Format:

- 3.3.1 **Cover Page:** You must include a Cover Page for the Proposal. It must be fully completed and signed by an authorized officer of the Proposer submitting the proposal.

- 3.3.2 **Table of Contents** The table of contents should outline in sequential order the major areas of the proposal. All proposal pages, including the enclosures, must be clearly and consecutively numbered and correspond to the table of contents.
- 3.3.3 **Executive Summary:** Provide a summary describing:
 - The Proposer’s ability to perform the work requested in this RFP;
 - A history of the Proposer’s background and experience in providing similar services;
 - The qualifications of the Proposer’s personnel to be assigned to this project;
 - The subcontractors or sub-consultants and a brief history of their background and experience.
 - Any other information called for by this RFP that the Proposer deems relevant, including any exceptions to this RFP.

This summary should be brief and concise to advise the reader of the essential services offered, experience, and qualifications of the Proposer, staff, subcontractors or sub-consultants, and any other relevant information.

3.4 Technical Information

- 3.4.1 Describe Proposer’s methodology and recommended solutions in performing the services described in the Scope of Services and describe the Proposer’s specific policies, plans, procedures, or techniques to perform the services.
- 3.4.2 The Proposer shall describe its approach to project organization and management, responsibilities of the Proposer’s management, and staff personnel that will perform work in this project.

3.5 Proposer’s Experience and Past Performance

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- 3.5.1 Describe the Proposer's past performance and experience and state the number of years that the Proposer has existed, the current number of employees, and the primary markets served.
- 3.5.2 Provide a detailed description of comparable contracts (similar in scope of services to those requested herein) that the Proposer has either ongoing or completed within the past three years. The description should identify the following: (1) the client, (2) description of work, (3) total dollar value of the contract, (4) contract duration, (5) customer contact person and phone number for reference, and (6) statement or notation of whether Proposer is/was the prime contractor or subcontractor or sub-consultant. Where possible, list and describe those services performed for government clients or similar-sized private entities and any work performed for the HHA.
- 3.5.3 Describe any other experiences related to the work or services described in the Scope of Services and any other information specific to the required services to be provided (e.g., software/hardware information, training, etc.).
- 3.5.4 Proposers shall identify any pending litigation in which they are involved either as a witness or as a party.
- 3.5.5 Proposers shall provide a listing of accreditation or memberships in organizations relevant to Section 2.0.

3.6 Key Personnel and Subcontractors Performing Services

- 3.6.1 Provide an organization chart showing all individuals, including their titles. This chart must identify the Proposer's employees and those of the subcontractors or sub-consultants.
- 3.6.2 List the names and addresses of all first-tier subcontractors or sub-consultants, and describe the extent of work to be performed by each first-tier subcontractor or sub-consultant. Describe the experience, qualifications, and other vital information, including relevant expertise on previous agreements of the subcontractors or sub-consultants.
- 3.6.3 Provide resumes with job descriptions and other detailed qualification information on all key personnel, including any key personnel of subcontractors or sub-consultants.

3.7 Entry of Proposed Fees

The proposer shall submit the proposed fees within the RFP in a separate envelope, "Proposed Fees," referred to as Cost Evaluation Criteria (Attachment 12)



3.8 Pricing Item

The proposed fees (Pricing Item) shall be submitted by the proposer and received by the Agency. Unless otherwise stated, the proposed fees are all-inclusive of all related costs that the successful proposer will incur to provide the noted services, including, but not limited to: employee wages and benefits; clerical support; overhead; profit; licensing; insurance; materials; supplies; tools; equipment; long-distance telephone calls; travel expenses; document copying not specifically otherwise agreed to by the Agency; etc.

Note: After proposal submission, but prior to the award of any contract issued as a result of this RFP, the Proposer has a continuing obligation to advise the HHA of any changes, intended or otherwise, to the key personnel identified in its proposal.

3.9 Compliance with Section 3 of the Housing and Urban Development of 1968 (optional)

Proposer shall demonstrate compliance with Section 3 of the Housing and Urban Development Act of 1968 and the implementing regulations in 24 CFR Part 75, as amended by interim rule published on May 31, 1995 (60 FR 28325) by:

- 3.9.1** Including with the proposal the Proposer's plan for recruiting and selecting low and very low-income persons for job training and employment opportunities resulting from work awarded through HHA and, where applicable, awarding contracting work to businesses that employ at least 30% of their workforce include low- and very low-income persons.
- 3.9.2** Meet all requirements listed under Section 3 of the HUD Act of 1968 (and provide all required Section 3 documents) required with the proposal and listed in the Section 3 Checklist.
- 3.9.3** Proposers may obtain a maximum of five (5) points by claiming a Section 3 business preference, if eligibility requirements are met, and/or committing to hire Section 3 workers
- 3.9.4** Its most recent certified business financial statements as of a date not earlier than the end of the Proposer's preceding official tax accounting period, together with a statement in writing, signed by a duly authorized representative, stating that the present financial condition is materially the same as that shown on the balance sheet and income statement submitted, or with an explanation for a material change in the financial condition. A copy of the most recent business income tax return will be accepted if certified financial statements are unavailable.
- 3.9.5** Information concerning any prior or pending litigation, either civil or criminal, involving a governmental agency or which may affect the performance of the services to be rendered herein, in which the Proposer, any of its employees or subcontractors or sub-consultants is or has been



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involved within the last three (3) years.

4.0 EVALUATION PROCESS

4.1 Review of Proposals for Responsiveness

Each proposal will be reviewed to determine if the proposal is responsive to the submission requirements outlined in this Solicitation. A responsive proposal follows the requirements of this Solicitation, includes all documentation, is submitted in the format outlined in this Solicitation, is of timely submission, and has the appropriate signatures as required on each document. Failure to comply with these requirements may result in the proposal being deemed non-responsive.

<u>Technical Criteria</u>	<u>Points</u>
Price: Proposals will be awarded up to <u>50</u> points for the cost comparison and value for Elevator Preventive Maintenance Services	50 Points
Performance Qualification: Our Evaluation will include an assessment of your company’s capacity, experience, and ability as it relates to the requirements within this RFP, evidence of past performance, staffing, equipment, and relevance of past work pertaining to Elevator Preventive Maintenance Services .	25 Points
Approach to Customer Services: Quality of overall approach to managing structure that will Service HHA and plan to maintain responsiveness communication	10 Points
Governmental Experience: Our Evaluation will look for your abilities to work with Municipalities, Governmental Agencies, and other Housing Authorities. We will consider comparisons, comments, and References, from these agencies.	10 Points
References and Overall Complete Proposal The overall quality of the Proposal. Demonstration of understanding the RFP and Scope of Work.	5 Points
Maximum Points (with optional points)	100



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4.2 Evaluation Criteria

Proposals will be evaluated by an Evaluation/Selection Committee, which will evaluate and rank proposals on criteria listed below pertaining to the Scope of Services described in Section 2. The Evaluation/Selection Committee will be comprised of appropriate HHA personnel with the appropriate experience and/or knowledge. The criteria are itemized with their respective weights for a maximum of one hundred (100) points per Evaluation/Selection Committee member and five additional points for Section 3 compliance.

4.3 Oral Presentations

Upon completion of the criteria evaluation indicated above, rating and ranking, the Evaluation/Selection Committee may choose to conduct an oral presentation with the Proposer(s) which the Evaluation/Selection Committee deems to warrant further consideration based on, among other considerations, scores in clusters and/or maintaining competition. Upon completion of the oral presentation(s), the Evaluation/Selection Committee will re evaluate, re-rate, and re-rank the proposals remaining in consideration based upon the written documents combined with the oral presentation.

4.4 Evaluation Committee

The Agency anticipates that it will select a minimum of a three-person committee to evaluate each of the responsive “hard copy” proposals submitted in response to this RFP. PLEASE NOTE: No proposer shall be informed at any time during or after the RFP process as to the identity of any evaluation committee member. If a proposer becomes aware of the identity of such person(s), he/she SHALL NOT attempt to contact or discuss anything related to this RFP with such person.

4.5 Price Evaluation

The price proposal will be evaluated subjectively, including how well it matches the Proposer’s understanding of the HHA’s needs described in this Solicitation, the Proposer’s assumptions, and the value of the proposed services. The pricing evaluation is used as part of the evaluation process to determine the highest ranked Proposer. The HHA reserves the right to negotiate the contract’s final terms, conditions, and pricing as may be in the best interest of the HHA.

4.6 Contract Award

Any contract resulting from this Solicitation will be submitted to the Board of Commissioners for approval. All Proposers will be notified in writing when the Board of Commissioners makes an award recommendation.

The Contract award, if any, shall be made to the Proposer whose proposal shall be deemed by the HHA to be in the best interest of the HHA. Notwithstanding the rights of protest described in the HUD Forms listed below, the HHA decides whether to make the award and to which the Proposer shall be final.



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5.0 LICENSING AND INSURANCE REQUIREMENTS

5.1 Licensing and Insurance Requirements.

Prior to award (but not as a part of the proposal submission), the Contractor will be required to provide (NOTE: Each of the following insurance coverage shall cover both the Contractor and the temporary employee):

- 5.1.1 **Workers Compensation Insurance.** An original certificate evidencing the proposer's current industrial (worker's compensation) insurance carrier and coverage amount.
- 5.1.2 **General Liability Insurance.** An original certificate evidencing General Liability coverage, naming the Agency as an additional insured, together with the appropriate endorsement to said policy reflecting the addition of the Agency as an additional insured under the stated policy (minimum of \$1,000,000 each occurrence, general aggregate minimum limit of \$1,000,000, together with damage to premises and fire damage of \$50,000 and medical expenses any one person of \$5,000), with a commercially reasonable deductible (e.g. "commercially reasonable," meaning not greater than 1% of the "general aggregate minimum" of the policy, with a maximum deductible amount of \$50,000;
- 5.1.3 **Professional Liability Insurance.** An original certificate showing the proposer's professional liability and/or "errors and omissions" coverage (minimum of \$1,000,000 each occurrence, general aggregate minimum limit of \$1,000,000), with a commercially reasonable deductible (e.g., "commercially reasonable," meaning not greater than 1% of the "general aggregate minimum" of the policy, with a maximum deductible amount of \$50,000;
- 5.1.4 **Automobile Insurance.** An original certificate showing the proposer's automobile insurance coverage in a combined single limit of \$1,000,000. For every vehicle utilized during the term of this program, when not owned by the entity, each vehicle must have evidence of automobile insurance coverage with limits of no less than \$50,000/\$100,000 and medical pay of \$5,000.
- 5.1.5 **City/County/State Business License.** If applicable, a copy of the proposer's business or professional license that may be required allowing that entity to provide such services within the City of Hialeah and/or the State of Florida.



5.2 Right to Negotiate Final Fees.

The Agency shall retain the right to negotiate the amount of fees that are paid to the Contractor, meaning the fees proposed by the top-rated proposer may, at the Agency's options, be the basis for the beginning of negotiations. Such negotiations shall begin after the Agency has chosen a top-rated proposer. If such negotiations are not, in the opinion of the CO, successfully concluded within five business days, the Agency shall retain the right to end such negotiations and begin negotiations with the next-rated proposer. The Agency shall also retain the right to negotiate with and make an award to more than one proposer, as long as such negotiation(s) and/or award(s) are addressed in the above manner (i.e., top-rated first, then next-rated following until a successful negotiation is reached).

5.3 Contract Service Standards.

All work performed pursuant to this RFP must conform and comply with all applicable local, state, and federal codes, statutes, laws, and regulations.

5.4 Prompt Return of Contract Documents.

Any and all documents required to complete the contract, including contract signature by the successful quoters, shall be provided to the Agency within ten work days of notification by the Agency.

6.0 ATTACHMENTS

Attachment 1- HUD Form 5370-C *General Conditions for Non-Construction Contracts*

Attachment 2- HUD Form 5369- *Introduction to Bidders for Contracts Public and Indian Housing*

Attachment 3 HUD Form 5369 A- *Representation, Certifications, and Other Statements of Bidders*

Attachment 4- HUD Form 5369 B- *Introduction to Offerors Non-Construction*

Attachment 5- HUD Form 5369 C- *Certification and Representations of Offerors*

Attachment 6- HUD Form 92010 – *Equal Employment Opportunity*

Attachment 7- **Non-Collusion Affidavit**

Attachment 9- **SBA Form 1623**

Attachment 10- **W9**

Attachment 11- **Section 3 Forms**

Attachment 12- **Cost Evaluation**





INVITATION FOR RFP
Elevator Preventive Maintenance
Service
BID #24-02-001
CR-1

THESE FORMS MUST BE INCLUDED AT THE TIME OF BID OPENING IN THE FOLLOWING ORDER:

- _____ Bid Proposal Form
- _____ Section 3 Business Concern Certification for Contracting
- _____ Scope of Service
- _____ Non-Collusive Affidavit
- _____ Minimum of (5) references on previous completed projects.
- _____ Equal Employment Opportunity Certification (HUD Form 92010)
- _____ HUD Forms 5369, 5369-A, 5370-C1, 4010.
- _____ Minimum of five (5) references on previously completed and/or on-going projects.
- _____ Statement of Bidder's qualifications
- _____ Contract Pricing Form
- _____ Sworn Statement Pursuant to Section 287.133(3)(a), Florida Statutes, on Public Entity Crimes
- _____ Sub-contractor list (licenses) (if applicable)
- _____ Current Original Certificate of good standing from the State of Florida
- _____ Certification Regarding Debarment, Suspension, and Other Responsibility Matters Primary Covered Transactions. *SBA Form 1623.*

LICENSES:

BIDDER MUST BE REGISTERED OR CERTIFIED by the State of Florida and will need to submit the following:

- _____ A copy of the Company's Occupational License

INSURANCES:

- _____ Liability Insurance, *Minimum of 1,000,000.00*
- _____ Auto Insurance, *Minimum of 1,000,000.00*
- _____ Workers' Compensation Insurance, *State Requirement*

WITHIN 10 WORKING DAYS AFTER AWARD OF THE BID, CONTRACTOR MUST SUBMIT:

- _____ Certificate of insurance naming Hialeah Housing Authority as an additional insured for the following:
 - General Liability: In an amount no less than \$1,000,000.00
 - Automobile Insurance: In an amount no less than \$300,000.00
 - Workers' Compensation Insurance, *State Requirement*
- _____ Section 3 Business Application

FOR HHA USE ONLY:

- _____ Certificate of Exclusion
- _____ DBPR Licenses Research
- _____ References & Insurance Verification
- _____ Cost and Price Analysis

**Failure to submit any of the above shall result in
the disqualification of your bid.**

General Conditions for Non-Construction Contracts

Section I – (With or without Maintenance Work)

U.S. Department of Housing and Urban Development

Office of Public and Indian Housing

Office of Labor Relations

OMB Approval No. 2577-0157 (exp. 1/01/2014)

Public Reporting Burden for this collection of information is estimated to average 0.08 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Reports Management Officer, Office of Information Policies and Systems, U.S. Department of Housing and Urban Development, Washington, D.C. 20410-3600; and to the Office of Management and Budget, Paperwork Reduction Project (2577-0157), Washington, D.C. 20503. Do not send this completed form to either of these addressees.

Applicability. This form HUD-5370-C has 2 Sections. These Sections must be inserted into non-construction contracts as described below:

- 1) **Non-construction contracts** (*without* maintenance) **greater than \$100,000 - use Section I;**
- 2) **Maintenance contracts** (including nonroutine maintenance as defined at 24 CFR 968.105) **greater than \$2,000 but not more than \$100,000 - use Section II;** and
- 3) **Maintenance contracts** (including nonroutine maintenance), **greater than \$100,000 – use Sections I and II.**

Section I - Clauses for All Non-Construction Contracts greater than \$100,000

1. Definitions

The following definitions are applicable to this contract:

- (a) "Authority or Housing Authority (HA)" means the Housing Authority.
- (b) "Contract" means the contract entered into between the Authority and the Contractor. It includes the contract form, the Certifications and Representations, these contract clauses, and the scope of work. It includes all formal changes to any of those documents by addendum, Change Order, or other modification.
- (c) "Contractor" means the person or other entity entering into the contract with the Authority to perform all of the work required under the contract.
- (d) "Day" means calendar days, unless otherwise stated.
- (e) "HUD" means the Secretary of Housing and Urban development, his delegates, successors, and assigns, and the officers and employees of the United States Department of Housing and Urban Development acting for and on behalf of the Secretary.

2. Changes

- (a) The HA may at any time, by written order, and without notice to the sureties, if any, make changes within the general scope of this contract in the services to be performed or supplies to be delivered.
- (b) If any such change causes an increase or decrease in the hourly rate, the not-to-exceed amount of the contract, or the time required for performance of any part of the work under this contract, whether or not changed by the order, or otherwise affects the conditions of this contract, the HA shall make an equitable adjustment in the not-to-exceed amount, the hourly rate, the delivery schedule, or other affected terms, and shall modify the contract accordingly.
- (c) The Contractor must assert its right to an equitable adjustment under this clause within 30 days from the date of receipt of the written order. However, if the HA decides that the facts justify it, the HA may receive and act upon a

- (d) proposal submitted before final payment of the contract.
- (d) Failure to agree to any adjustment shall be a dispute under clause Disputes, herein. However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.
- (e) No services for which an additional cost or fee will be charged by the Contractor shall be furnished without the prior written consent of the HA.

3. Termination for Convenience and Default

- (a) The HA may terminate this contract in whole, or from time to time in part, for the HA's convenience or the failure of the Contractor to fulfill the contract obligations (default). The HA shall terminate by delivering to the Contractor a written Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, the Contractor shall: (i) immediately discontinue all services affected (unless the notice directs otherwise); and (ii) deliver to the HA all information, reports, papers, and other materials accumulated or generated in performing this contract, whether completed or in process.
- (b) If the termination is for the convenience of the HA, the HA shall be liable only for payment for services rendered before the effective date of the termination.
- (c) If the termination is due to the failure of the Contractor to fulfill its obligations under the contract (default), the HA may (i) require the Contractor to deliver to it, in the manner and to the extent directed by the HA, any work as described in subparagraph (a)(ii) above, and compensation be determined in accordance with the Changes clause, paragraph 2, above; (ii) take over the work and prosecute the same to completion by contract or otherwise, and the Contractor shall be liable for any additional cost incurred by the HA; (iii) withhold any payments to the Contractor, for the purpose of off-set or partial payment, as the case may be, of amounts owed to the HA by the Contractor.
- (d) If, after termination for failure to fulfill contract obligations (default), it is determined that the Contractor had not failed, the termination shall be deemed to have been effected for the convenience of the HA, and the Contractor shall be entitled to payment as described in paragraph (b) above.
- (e) Any disputes with regard to this clause are expressly made subject to the terms of clause titled Disputes herein.

4. Examination and Retention of Contractor's Records

- (a) The HA, HUD, or Comptroller General of the United States, or any of their duly authorized representatives shall, until 3 years after final payment under this contract, have access to and the right to examine any of the Contractor's directly pertinent books, documents, papers, or other records involving transactions related to this contract for the purpose of making audit, examination, excerpts, and transcriptions.

- (b) The Contractor agrees to include in first-tier subcontracts under this contract a clause substantially the same as paragraph (a) above. "Subcontract," as used in this clause, excludes purchase orders not exceeding \$10,000.
- (c) The periods of access and examination in paragraphs (a) and (b) above for records relating to:
 - (i) appeals under the clause titled Disputes;
 - (ii) litigation or settlement of claims arising from the performance of this contract; or,
 - (iii) costs and expenses of this contract to which the HA, HUD, or Comptroller General or any of their duly authorized representatives has taken exception shall continue until disposition of such appeals, litigation, claims, or exceptions.

A breach of these Contract clauses may be grounds for termination of the Contract and for debarment or denial of participation in HUD programs as a Contractor and a subcontractor as provided in 24 CFR Part 24.

5. Rights in Data (Ownership and Proprietary Interest)

The HA shall have exclusive ownership of, all proprietary interest in, and the right to full and exclusive possession of all information, materials and documents discovered or produced by Contractor pursuant to the terms of this Contract, including but not limited to reports, memoranda or letters concerning the research and reporting tasks of this Contract.

6. Energy Efficiency

The contractor shall comply with all mandatory standards and policies relating to energy efficiency which are contained in the energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub.L. 94-163) for the State in which the work under this contract is performed.

7. Disputes

- (a) All disputes arising under or relating to this contract, except for disputes arising under clauses contained in Section III, Labor Standards Provisions, including any claims for damages for the alleged breach there of which are not disposed of by agreement, shall be resolved under this clause.
- (b) All claims by the Contractor shall be made in writing and submitted to the HA. A claim by the HA against the Contractor shall be subject to a written decision by the HA.
- (c) The HA shall, with reasonable promptness, but in no event in no more than 60 days, render a decision concerning any claim hereunder. Unless the Contractor, within 30 days after receipt of the HA's decision, shall notify the HA in writing that it takes exception to such decision, the decision shall be final and conclusive.
- (d) Provided the Contractor has (i) given the notice within the time stated in paragraph (c) above, and (ii) excepted its claim relating to such decision from the final release, and (iii) brought suit against the HA not later than one year after receipt of final payment, or if final payment has not been made, not later than one year after the Contractor has had a reasonable time to respond to a written request by the HA that it submit a final voucher and release, whichever is earlier, then the HA's decision shall not be final or conclusive, but the dispute shall be determined on the merits by a court of competent jurisdiction.
- (e) The Contractor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under the contract, and comply with any decision of the HA.

8. Contract Termination; Debarment

9. Assignment of Contract

The Contractor shall not assign or transfer any interest in this contract; except that claims for monies due or to become due from the HA under the contract may be assigned to a bank, trust company, or other financial institution. If the Contractor is a partnership, this contract shall inure to the benefit of the surviving or remaining member(s) of such partnership approved by the HA.

10. Certificate and Release

Prior to final payment under this contract, or prior to settlement upon termination of this contract, and as a condition precedent thereto, the Contractor shall execute and deliver to the HA a certificate and release, in a form acceptable to the HA, of all claims against the HA by the Contractor under and by virtue of this contract, other than such claims, if any, as may be specifically excepted by the Contractor in stated amounts set forth therein.

11. Organizational Conflicts of Interest

- (a) The Contractor warrants that to the best of its knowledge and belief and except as otherwise disclosed, it does not have any organizational conflict of interest which is defined as a situation in which the nature of work under this contract and a contractor's organizational, financial, contractual or other interests are such that:
 - (i) Award of the contract may result in an unfair competitive advantage; or
 - (ii) The Contractor's objectivity in performing the contract work may be impaired.
- (b) The Contractor agrees that if after award it discovers an organizational conflict of interest with respect to this contract or any task/delivery order under the contract, he or she shall make an immediate and full disclosure in writing to the Contracting Officer which shall include a description of the action which the Contractor has taken or intends to take to eliminate or neutralize the conflict. The HA may, however, terminate the contract or task/delivery order for the convenience of the HA if it would be in the best interest of the HA.
- (c) In the event the Contractor was aware of an organizational conflict of interest before the award of this contract and intentionally did not disclose the conflict to the Contracting Officer, the HA may terminate the contract for default.
- (d) The terms of this clause shall be included in all subcontracts and consulting agreements wherein the work to be performed is similar to the service provided by the prime Contractor. The Contractor shall include in such subcontracts and consulting agreements any necessary provisions to eliminate or neutralize conflicts of interest.

12. Inspection and Acceptance

- (a) The HA has the right to review, require correction, if necessary, and accept the work products produced by the Contractor. Such review(s) shall be carried out within 30 days so as to not impede the work of the Contractor. Any

product of work shall be deemed accepted as submitted if the HA does not issue written comments and/or required corrections within 30 days from the date of receipt of such product from the Contractor.

- (b) The Contractor shall make any required corrections promptly at no additional charge and return a revised copy of the product to the HA within 7 days of notification or a later date if extended by the HA.
- (c) Failure by the Contractor to proceed with reasonable promptness to make necessary corrections shall be a default. If the Contractor's submission of corrected work remains unacceptable, the HA may terminate this contract (or the task order involved) or reduce the contract price or cost to reflect the reduced value of services received.

13. Interest of Members of Congress

No member of or delegate to the Congress of the United States of America or Resident Commissioner shall be admitted to any share or part of this contract or to any benefit to arise there from, but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit.

14. Interest of Members, Officers, or Employees and Former Members, Officers, or Employees

No member, officer, or employee of the HA, no member of the governing body of the locality in which the project is situated, no member of the governing body in which the HA was activated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the project, shall, during his or her tenure, or for one year thereafter, have any interest, direct or indirect, in this contract or the proceeds thereof.

15. Limitation on Payments to Influence Certain Federal Transactions

(a) Definitions. As used in this clause:

"Agency", as defined in 5 U.S.C. 552(f), includes Federal executive departments and agencies as well as independent regulatory commissions and Government corporations, as defined in 31 U.S.C. 9101(1).

"Covered Federal Action" means any of the following Federal actions:

- (i) The awarding of any Federal contract;
- (ii) The making of any Federal grant;
- (iii) The making of any Federal loan;
- (iv) The entering into of any cooperative agreement; and,
- (v) The extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

Covered Federal action does not include receiving from an agency a commitment providing for the United States to insure or guarantee a loan.

"Indian tribe" and "tribal organization" have the meaning provided in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450B). Alaskan Natives are included under the definitions of Indian tribes in that Act.

"Influencing or attempting to influence" means making, with the intent to influence, any communication to or appearance before an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any covered Federal action.

"Local government" means a unit of government in a State and, if chartered, established, or otherwise recognized by a State for the performance of a governmental duty, including a local public authority, a special district, an intrastate district, a council of governments, a sponsor group representative organization, and any other instrumentality of a local government.

"Officer or employee of an agency" includes the following individuals who are employed by an agency:

- (i) An individual who is appointed to a position in the Government under title 5, U.S.C., including a position under a temporary appointment;
- (ii) A member of the uniformed services as defined in section 202, title 18, U.S.C.;
- (iii) A special Government employee as defined in section 202, title 18, U.S.C.; and,
- (iv) An individual who is a member of a Federal advisory committee, as defined by the Federal Advisory Committee Act, title 5, appendix 2.

"Person" means an individual, corporation, company, association, authority, firm, partnership, society, State, and local government, regardless of whether such entity is operated for profit or not for profit. This term excludes an Indian tribe, tribal organization, or other Indian organization with respect to expenditures specifically permitted by other Federal law.

"Recipient" includes all contractors, subcontractors at any tier, and subgrantees at any tier of the recipient of funds received in connection with a Federal contract, grant, loan, or cooperative agreement. The term excludes an Indian tribe, tribal organization, or any other Indian organization with respect to expenditures specifically permitted by other Federal law.

"Regularly employed means, with respect to an officer or employee of a person requesting or receiving a Federal contract, grant, loan, or cooperative agreement, an officer or employee who is employed by such person for at least 130 working days within one year immediately preceding the date of the submission that initiates agency consideration of such person for receipt of such contract, grant, loan, or cooperative agreement. An officer or employee who is employed by such person for less than 130 working days within one year immediately preceding the date of submission that initiates agency consideration of such person shall be considered to be regularly employed as soon as he or she is employed by such person for 130 working days.

"State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, an agency or instrumentality of a State, and a multi-State, regional, or interstate entity having governmental duties and powers.

(b) Prohibition.

- (i) Section 1352 of title 31, U.S.C. provides in part that no appropriated funds may be expended by the recipient of a Federal contract, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered Federal actions: the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (ii) The prohibition does not apply as follows:

(1) Agency and legislative liaison by Own Employees.

(a) The prohibition on the use of appropriated funds, in paragraph (i) of this section, does not apply in the case of a payment of reasonable compensation made to an officer or employee of a person requesting or receiving a Federal contract, grant, loan, or cooperative agreement, if the payment is for agency and legislative activities not directly related to a covered Federal action.

(b) For purposes of paragraph (b)(i)(1)(a) of this clause, providing any information specifically requested by an agency or Congress is permitted at any time.

(c) The following agency and legislative liaison activities are permitted at any time only where they are not related to a specific solicitation for any covered Federal action:

(1) Discussing with an agency (including individual demonstrations) the qualities and characteristics of the person's products or services, conditions or terms of sale, and service capabilities; and,

(2) Technical discussions and other activities regarding the application or adaptation of the person's products or services for an agency's use.

(d) The following agency and legislative liaison activities are permitted where they are prior to formal solicitation of any covered Federal action:

(1) Providing any information not specifically requested but necessary for an agency to make an informed decision about initiation of a covered Federal action;

(2) Technical discussions regarding the preparation of an unsolicited proposal prior to its official submission; and

(3) Capability presentations by persons seeking awards from an agency pursuant to the provisions of the Small Business Act, as amended by Public Law 95-507 and other subsequent amendments.

(e) Only those activities expressly authorized by subdivision (b)(ii)(1)(a) of this clause are permitted under this clause.

(2) Professional and technical services.

(a) The prohibition on the use of appropriated funds, in subparagraph (b)(i) of this clause, does not apply in the case of-

(i) A payment of reasonable compensation made to an officer or employee of a person requesting or receiving a covered Federal action or an extension, continuation, renewal, amendment, or modification of a covered Federal action, if payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action.

(ii) Any reasonable payment to a person, other than an officer or employee of a

person requesting or receiving a covered Federal action or an extension, continuation, renewal, amendment, or modification of a covered Federal action if the payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action. Persons other than officers or employees of a person requesting or receiving a covered Federal action include consultants and trade associations.

(b) For purposes of subdivision (b)(ii)(2)(a) of clause, "professional and technical services" shall be limited to advice and analysis directly applying any professional or technical discipline.

(c) Requirements imposed by or pursuant to law as a condition for receiving a covered Federal award include those required by law or regulation, or reasonably expected to be required by law or regulation, and any other requirements in the actual award documents.

(d) Only those services expressly authorized by subdivisions (b)(ii)(2)(a)(i) and (ii) of this section are permitted under this clause.

(iii) Selling activities by independent sales representatives.

(c) The prohibition on the use of appropriated funds, in subparagraph (b)(i) of this clause, does not apply to the following selling activities before an agency by independent sales representatives, provided such activities are prior to formal solicitation by an agency and are specifically limited to the merits of the matter:

(i) Discussing with an agency (including individual demonstration) the qualities and characteristics of the person's products or services, conditions or terms of sale, and service capabilities; and

(ii) Technical discussions and other activities regarding the application or adaptation of the person's products or services for an agency's use.

(d) Agreement. In accepting any contract, grant, cooperative agreement, or loan resulting from this solicitation, the person submitting the offer agrees not to make any payment prohibited by this clause.

(e) Penalties. Any person who makes an expenditure prohibited under paragraph (b) of this clause shall be subject to civil penalties as provided for by 31 U.S.C. 1352. An imposition of a civil penalty does not prevent the Government from seeking any other remedy that may be applicable.

(f) Cost Allowability. Nothing in this clause is to be interpreted to make allowable or reasonable any costs which would be unallowable or unreasonable in accordance with Part 31 of the Federal Acquisition Regulation (FAR), or OMB Circulars dealing with cost allowability for recipients of assistance agreements. Conversely, costs made specifically unallowable by the requirements in this clause will not be made allowable under any of the provisions of FAR Part 31 or the relevant OMB Circulars.

16. Equal Employment Opportunity

During the performance of this contract, the Contractor agrees as follows:

- (a) The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin.
- (b) The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to (1) employment; (2) upgrading; (3) demotion; (4) transfer; (5) recruitment or recruitment advertising; (6) layoff or termination; (7) rates of pay or other forms of compensation; and (8) selection for training, including apprenticeship.
- (c) The Contractor shall post in conspicuous places available to employees and applicants for employment the notices to be provided by the Contracting Officer that explain this clause.
- (d) The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
- (e) The Contractor shall send, to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, the notice to be provided by the Contracting Officer advising the labor union or workers' representative of the Contractor's commitments under this clause, and post copies of the notice in conspicuous places available to employees and applicants for employment.
- (f) The Contractor shall comply with Executive Order 11246, as amended, and the rules, regulations, and orders of the Secretary of Labor.
- (g) The Contractor shall furnish all information and reports required by Executive Order 11246, as amended and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto. The Contractor shall permit access to its books, records, and accounts by the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (h) In the event of a determination that the Contractor is not in compliance with this clause or any rule, regulation, or order of the Secretary of Labor, this contract may be canceled, terminated, or suspended in whole or in part, and the Contractor may be declared ineligible for further Government contracts, or federally assisted construction contracts under the procedures authorized in Executive Order 11246, as amended. In addition, sanctions may be imposed and remedies invoked against the Contractor as provided in Executive Order 11246, as amended, the rules, regulations, and orders of the Secretary of Labor, or as otherwise provided by law.
- (i) The Contractor shall include the terms and conditions of this clause in every subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor issued under Executive Order 11246, as amended, so that these terms and conditions will be binding upon each subcontractor or vendor. The Contractor shall take such action with respect to any subcontractor or purchase order as the Secretary of Housing and Urban Development or the Secretary of Labor may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided that if the

Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

17. Dissemination or Disclosure of Information

No information or material shall be disseminated or disclosed to the general public, the news media, or any person or organization without prior express written approval by the HA.

18. Contractor's Status

It is understood that the Contractor is an independent contractor and is not to be considered an employee of the HA, or assume any right, privilege or duties of an employee, and shall save harmless the HA and its employees from claims suits, actions and costs of every description resulting from the Contractor's activities on behalf of the HA in connection with this Agreement.

19. Other Contractors

HA may undertake or award other contracts for additional work at or near the site(s) of the work under this contract. The contractor shall fully cooperate with the other contractors and with HA and HUD employees and shall carefully adapt scheduling and performing the work under this contract to accommodate the additional work, heeding any direction that may be provided by the Contracting Officer. The contractor shall not commit or permit any act that will interfere with the performance of work by any other contractor or HA employee.

20. Liens

The Contractor is prohibited from placing a lien on HA's property. This prohibition shall apply to all subcontractors.

21. Training and Employment Opportunities for Residents in the Project Area (Section 3, HUD Act of 1968; 24 CFR 135)

- (a) The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- (b) The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 135 regulations.
- (c) The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of

apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

- (d) The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.
- (e) The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR Part 135.
- (f) Noncompliance with HUD's regulations in 24 CFR Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

22. Procurement of Recovered Materials

- (a) In accordance with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, the Contractor shall procure items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition. The Contractor shall procure items designated in the EPA guidelines that contain the highest percentage of recovered materials practicable unless the Contractor determines that such items: (1) are not reasonably available in a reasonable period of time; (2) fail to meet reasonable performance standards, which shall be determined on the basis of the guidelines of the National Institute of Standards and Technology, if applicable to the item; or (3) are only available at an unreasonable price.
- (b) Paragraph (a) of this clause shall apply to items purchased under this contract where: (1) the Contractor purchases in excess of \$10,000 of the item under this contract; or (2) during the preceding Federal fiscal year, the Contractor: (i) purchased any amount of the items for use under a contract that was funded with Federal appropriations and was with a Federal agency or a State agency or agency of a political subdivision of a State; and (ii) purchased a total of in excess of \$10,000 of the item both under and outside that contract.

General Conditions for Non-Construction Contracts

Section II – (With Maintenance Work)

U.S. Department of Housing and Urban Development

Office of Public and Indian Housing

Office of Labor Relations

OMB Approval No. 2577-0157 (exp. 1/01/2014)

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Applicability. This form HUD-5370C has 2 Sections. These Sections must be inserted into non-construction contracts as described below:

- 1) Non-construction contracts (*without* maintenance) greater than \$100,000 - use Section I;
- 2) Maintenance contracts (including nonroutine maintenance as defined at 24 CFR 968.105) greater than \$2,000 but not more than \$100,000 - use Section II; and
- 3) Maintenance contracts (including nonroutine maintenance), greater than \$100,000 – use Sections I and II.

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Section II – Labor Standard Provisions for all Maintenance Contracts greater than \$2,000
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1. Minimum Wages

- (a) All maintenance laborers and mechanics employed under this Contract in the operation of the project(s) shall be paid unconditionally and not less often than semi-monthly, and without subsequent deduction (except as otherwise provided by law or regulations), the full amount of wages due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Housing and Urban Development which is attached hereto and made a part hereof. Such laborers and mechanics shall be paid the appropriate wage rate on the wage determination for the classification of work actually performed, without regard to skill. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein; provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination, including any additional classifications and wage rates approved by HUD under subparagraph 1(b), shall be posted at all times by the Contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.
- (b) (i) Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the Contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate only when the following criteria have been met:
 - (1) The work to be performed by the classification required is not performed by a classification in the wage determination;
 - (2) The classification is utilized in the area by the industry; and
 - (3) The proposed wage rate bears a reasonable relationship to the wage rates contained in the wage determination.
- (ii) The wage rate determined pursuant to this paragraph shall be paid to all workers performing work

in the classification under this Contract from the first day on which work is performed in the classification.

2. Withholding of funds

The Contracting Officer, upon his/her own action or upon request of HUD, shall withhold or cause to be withheld from the Contractor under this Contract or any other contract subject to HUD-determined wage rates, with the same prime Contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics employed by the Contractor or any subcontractor the full amount of wages required by this clause. In the event of failure to pay any laborer or mechanic employed under this Contract all or part of the wages required under this Contract, the Contracting Officer or HUD may, after written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payment or advance until such violations have ceased. The Public Housing Agency or HUD may, after written notice to the Contractor, disburse such amounts withheld for and on account of the Contractor or subcontractor to the respective employees to whom they are due.

3. Records

- (a) The Contractor and each subcontractor shall make and maintain for three (3) years from the completion of the work records containing the following for each laborer and mechanic:
 - (i) Name, address and Social Security Number;
 - (ii) Correct work classification or classifications;
 - (iii) Hourly rate or rates of monetary wages paid;
 - (iv) Rate or rates of any fringe benefits provided;
 - (v) Number of daily and weekly hours worked;
 - (vi) Gross wages earned;
 - (vii) Any deductions made; and
 - (viii) Actual wages paid.
- (b) The Contractor and each subcontractor shall make the records required under paragraph 3(a) available for inspection, copying, or transcription by authorized representatives of HUD or the HA and shall permit such representatives to interview employees during working hours on the job. If the Contractor or any subcontractor fails to make the required records available, HUD or its designee may, after written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payment, advance or guarantee of funds.

4. Apprentices and Trainees

- (a) Apprentices and trainees will be permitted to work at less than the predetermined rate for the work they perform when they are employed pursuant to and individually registered in:
 - (i) A bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration (ETA), Office of

Apprenticeship Training, Employer and Labor Services (OATELS), or with a state apprenticeship agency recognized by OATELS, or if a person is employed in his/her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by OATELS or a state apprenticeship agency (where appropriate) to be eligible for probationary employment as an apprentice;

- (ii) A trainee program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, ETA; or
 - (iii) A training/trainee program that has received prior approval by HUD.
- (b) Each apprentice or trainee must be paid at not less than the rate specified in the registered or approved program for the apprentice's/trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Apprentices and trainees shall be paid fringe benefits in accordance with the provisions of the registered or approved program. If the program does not specify fringe benefits, apprentices/trainees must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification.
- (c) The allowable ratio of apprentices or trainees to journeyman on the job site in any craft classification shall not be greater than the ratio permitted to the employer as to the entire work force under the approved program.
- (d) Any worker employed at an apprentice or trainee wage rate who is not registered in an approved program, and any apprentice or trainee performing work on the job site in excess of the ratio permitted under the approved program, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed.
- (e) In the event OATELS, a state apprenticeship agency recognized by OATELS or ETA, or HUD, withdraws approval of an apprenticeship or trainee program, the employer will no longer be permitted to utilize apprentices/trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

5. Disputes concerning labor standards

- (a) Disputes arising out of the labor standards provisions contained in Section II of this form HUD-5370-C, other than those in Paragraph 6, shall be subject to the following procedures. Disputes within the meaning of this paragraph include disputes between the Contractor (or any of its subcontractors) and the HA, or HUD, or the employees or their representatives, concerning payment of prevailing wage rates or proper classification. The procedures in this section may be initiated upon HUD's own motion, upon referral of the HA, or upon request of the Contractor or subcontractor(s).
- (i) A Contractor and/or subcontractor or other interested party desiring reconsideration of findings of violation by the HA or HUD relating to the payment of straight-time prevailing wages or classification of work shall request such reconsideration by letter postmarked within 30 calendar days of the date of notice of findings issued by the HA or HUD. The request shall set

forth those findings that are in dispute and the reasons, including any affirmative defenses, with respect to the violations. The request shall be directed to the appropriate HA or HUD official in accordance with instructions contained in the notice of findings or, if the notice does not specify to whom a request should be made, to the Regional Labor Relations Officer (HUD).

- (ii) The HA or HUD official shall, within 60 days (unless otherwise indicated in the notice of findings) after receipt of a timely request for reconsideration, issue a written decision on the findings of violation. The written decision on reconsideration shall contain instructions that any appeal of the decision shall be addressed to the Regional Labor Relations Officer by letter postmarked within 30 calendar days after the date of the decision. In the event that the Regional Labor Relations Officer was the deciding official on reconsideration, the appeal shall be directed to the Director, Office of Labor Relations (HUD). Any appeal must set forth the aspects of the decision that are in dispute and the reasons, including any affirmative defenses, with respect to the violations.
- (iii) The Regional Labor Relations Officer shall, within 60 days (unless otherwise indicated in the decision on reconsideration) after receipt of a timely appeal, issue a written decision on the findings. A decision of the Regional Labor Relations Officer may be appealed to the Director, Office of Labor Relations, by letter postmarked within 30 days of the Regional Labor Relations Officer's decision. Any appeal to the Director must set forth the aspects of the prior decision(s) that are in dispute and the reasons. The decision of the Director, Office of Labor Relations, shall be final.

- (b) Disputes arising out of the labor standards provisions of paragraph 6 shall not be subject to paragraph 5(a) of this form HUD-5370C. Such disputes shall be resolved in accordance with the procedures of the U.S. Department of Labor set forth in 29 CFR Parts 5, 6 and 7. Disputes within the meaning of this paragraph 5(b) include disputes between the Contractor (or any of its subcontractors) and the HA, HUD, the U.S. Department of Labor, or the employees or their representatives.

6. Contract Work Hours and Safety Standards Act

The provisions of this paragraph 6 are applicable only where the amount of the prime contract exceeds \$100,000. As used in this paragraph, the terms "laborers" and "mechanics" includes watchmen and guards.

- (a) **Overtime requirements.** No Contractor or subcontractor contracting for any part of the Contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.
- (b) **Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the provisions set forth in paragraph 6(a), the Contractor and any

subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to the District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the provisions set forth in paragraph (a) of this clause, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by provisions set forth in paragraph (a) of this clause.

- (c) **Withholding for unpaid wages and liquidated damages.** HUD or its designee shall upon its own action or upon written request of an authorized representative of the U.S. Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such Contract or any federal contract with the same prime Contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Contractor such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the provisions set forth in paragraph (b) of this clause.

7. Subcontracts

The Contractor or subcontractor shall insert in any subcontracts all the provisions contained in this Section II and also a clause requiring the subcontractors to include these provisions in any lower tier subcontracts. The prime Contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the provisions contained in these clauses.

8. Non-Federal Prevailing Wage Rates

Any prevailing wage rate (including basic hourly rate and any fringe benefits), determined under state law to be prevailing, with respect to any employee in any trade or position employed under the Contract, is inapplicable to the contract and shall not be enforced against the Contractor or any subcontractor, with respect to employees engaged under the contract whenever such non-Federal prevailing wage rate, exclusive of any fringe benefits, exceeds the applicable wage rate determined by the Secretary of HUD to be prevailing in the locality with respect to such trade or position.

**U.S. Department of Housing and
Urban Development**
Office of Public and Indian Housing

**Instructions to Bidders for Contracts
Public and Indian Housing Programs**

Instructions to Bidders for Contracts

Public and Indian Housing Programs

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1. Bid Preparation and Submission

(a) Bidders are expected to examine the specifications, drawings, all instructions, and, if applicable, the construction site (see also the contract clause entitled **Site Investigation and Conditions Affecting the Work** of the *General Conditions of the Contract for Construction*). Failure to do so will be at the bidders' risk.

(b) All bids must be submitted on the forms provided by the Public Housing Agency/Indian Housing Authority (PHA/IHA). Bidders shall furnish all the information required by the solicitation. Bids must be signed and the bidder's name typed or printed on the bid sheet and each continuation sheet which requires the entry of information by the bidder. Erasures or other changes must be initialed by the person signing the bid. Bids signed by an agent shall be accompanied by evidence of that agent's authority. (Bidders should retain a copy of their bid for their records.)

(c) Bidders must submit as part of their bid a completed form HUD-5369-A, "Representations, Certifications, and Other Statements of Bidders."

(d) All bid documents shall be sealed in an envelope which shall be clearly marked with the words "Bid Documents," the Invitation for Bids (IFB) number, any project or other identifying number, the bidder's name, and the date and time for receipt of bids.

(e) If this solicitation requires bidding on all items, failure to do so will disqualify the bid. If bidding on all items is not required, bidders should insert the words "No Bid" in the space provided for any item on which no price is submitted.

(f) Unless expressly authorized elsewhere in this solicitation, alternate bids will not be considered.

(g) Unless expressly authorized elsewhere in this solicitation, bids submitted by telegraph or facsimile (fax) machines will not be considered.

(h) If the proposed contract is for a Mutual Help project (as described in 24 CFR Part 905, Subpart E) that involves Mutual Help contributions of work, material, or equipment, supplemental information regarding the bid advertisement is provided as an attachment to this solicitation.

2. Explanations and Interpretations to Prospective Bidders

(a) Any prospective bidder desiring an explanation or interpretation of the solicitation, specifications, drawings, etc., must request it at least 7 days before the scheduled time for bid opening. Requests may be oral or written. Oral requests must be confirmed in writing. The only oral clarifications that will be provided will be those clearly related to solicitation procedures, i.e., not substantive technical information. No other oral explanation or interpretation will be provided. Any information given a prospective bidder concerning this solicitation will be furnished promptly to all other prospective bidders as a written amendment to the solicitation, if that information is necessary in submitting bids, or if the lack of it would be prejudicial to other prospective bidders.

(b) Any information obtained by, or provided to, a bidder other than by formal amendment to the solicitation shall not constitute a change to the solicitation.

3. Amendments to Invitations for Bids

(a) If this solicitation is amended, then all terms and conditions which are not modified remain unchanged.

(b) Bidders shall acknowledge receipt of any amendment to this solicitation (1) by signing and returning the amendment, (2) by identifying the amendment number and date on the bid form, or (3) by letter, telegram, or facsimile, if those methods are authorized in the solicitation. The PHA/IHA must receive acknowledgement by the time and at the place specified for receipt of bids. Bids which fail to acknowledge the bidder's receipt of any amendment will result in the rejection of the bid if the amendment(s) contained information which substantively changed the PHA's/IHA's requirements.

(c) Amendments will be on file in the offices of the PHA/IHA and the Architect at least 7 days before bid opening.

4. Responsibility of Prospective Contractor

(a) The PHA/IHA will award contracts only to responsible prospective contractors who have the ability to perform successfully under the terms and conditions of the proposed contract. In determining the responsibility of a bidder, the PHA/IHA will consider such matters as the bidder's:

- (1) Integrity;
- (2) Compliance with public policy;
- (3) Record of past performance; and
- (4) Financial and technical resources (including construction and technical equipment).

(b) Before a bid is considered for award, the bidder may be requested by the PHA/IHA to submit a statement or other documentation regarding any of the items in paragraph (a) above. Failure by the bidder to provide such additional information shall render the bidder nonresponsible and ineligible for award.

5. Late Submissions, Modifications, and Withdrawal of Bids

(a) Any bid received at the place designated in the solicitation after the exact time specified for receipt will not be considered unless it is received before award is made and it:

(1) Was sent by registered or certified mail not later than the fifth calendar day before the date specified for receipt of offers (e.g., an offer submitted in response to a solicitation requiring receipt of offers by the 20th of the month must have been mailed by the 15th);

(2) Was sent by mail, or if authorized by the solicitation, was sent by telegram or via facsimile, and it is determined by the PHA/IHA that the late receipt was due solely to mishandling by the PHA/IHA after receipt at the PHA/IHA; or

(3) Was sent by U.S. Postal Service Express Mail Next Day Service - Post Office to Addressee, not later than 5:00 p.m. at the place of mailing two working days prior to the date specified for receipt of proposals. The term "working days" excludes weekends and observed holidays.

(b) Any modification or withdrawal of a bid is subject to the same conditions as in paragraph (a) of this provision.

(c) The only acceptable evidence to establish the date of mailing of a late bid, modification, or withdrawal sent either by registered or certified mail is the U.S. or Canadian Postal Service postmark both on the envelope or wrapper and on the original receipt from the U.S. or Canadian Postal Service. Both postmarks must show a legible date or the bid, modification, or withdrawal shall be processed as if mailed late. "Postmark" means a printed, stamped, or otherwise placed impression (exclusive of a postage meter machine impression) that is readily identifiable without further action as having been supplied and affixed by employees of the U.S. or Canadian Postal Service on the date of mailing. Therefore, bidders should request the postal clerk to place a hand cancellation bull's-eye postmark on both the receipt and the envelope or wrapper.

(d) The only acceptable evidence to establish the time of receipt at the PHA/IHA is the time/date stamp of PHA/IHA on the proposal wrapper or other documentary evidence of receipt maintained by the PHA/IHA.

(e) The only acceptable evidence to establish the date of mailing of a late bid, modification, or withdrawal sent by Express Mail Next Day Service-Post Office to Addressee is the date entered by the post office receiving clerk on the "Express Mail Next Day Service-Post Office to Addressee" label and the postmark on both the envelope or wrapper and on the original receipt from the U.S. Postal Service. "Postmark" has the same meaning as defined in paragraph (c) of this provision, excluding postmarks of the Canadian Postal Service. Therefore, bidders should request the postal clerk to place a legible hand cancellation bull's eye postmark on both the receipt and Failure by a bidder to acknowledge receipt of the envelope or wrapper.

(f) Notwithstanding paragraph (a) of this provision, a late modification of an otherwise successful bid that makes its terms more favorable to the PHA/IHA will be considered at any time it is received and may be accepted.

(g) Bids may be withdrawn by written notice, or if authorized by this solicitation, by telegram (including mailgram) or facsimile machine transmission received at any time before the exact time set for opening of bids; provided that written confirmation of telegraphic or facsimile withdrawals over the signature of the bidder is mailed and postmarked prior to the specified bid opening time. A bid may be withdrawn in person by a bidder or its authorized representative if, before the exact time set for opening of bids, the identity of the person requesting withdrawal is established and the person signs a receipt for the bid.

6. Bid Opening

All bids received by the date and time of receipt specified in the solicitation will be publicly opened and read. The time and place of opening will be as specified in the solicitation. Bidders and other interested persons may be present.

7. Service of Protest

(a) Definitions. As used in this provision:

"Interested party" means an actual or prospective bidder whose direct economic interest would be affected by the award of the contract.

"Protest" means a written objection by an interested party to this solicitation or to a proposed or actual award of a contract pursuant to this solicitation.

(b) Protests shall be served on the Contracting Officer by obtaining written and dated acknowledgement from —

[Contracting Officer designate the official or location where a protest may be served on the Contracting Officer]

(c) All protests shall be resolved in accordance with the PHA's/IHA's protest policy and procedures, copies of which are maintained at the PHA/IHA.

8. Contract Award

(a) The PHA/IHA will evaluate bids in response to this solicitation without discussions and will award a contract to the responsible bidder whose bid, conforming to the solicitation, will be most advantageous to the PHA/IHA considering only price and any price-related factors specified in the solicitation.

(b) If the apparent low bid received in response to this solicitation exceeds the PHA's/IHA's available funding for the proposed contract work, the PHA/IHA may either accept separately priced items (see 8(e) below) or use the following procedure to determine contract award. The PHA/IHA shall apply in turn to each bid (proceeding in order from the apparent low bid to the high bid) each of the separately priced bid deductible items, if any, in their priority order set forth in this solicitation. If upon the application of the first deductible item to all initial bids, a new low bid is within the PHA's/IHA's available funding, then award shall be made to that bidder. If no bid is within the available funding amount, then the PHA/IHA shall apply the second deductible item. The PHA/IHA shall continue this process until an evaluated low bid, if any, is within the PHA's/IHA's available funding. If upon the application of all deductibles, no bid is within the PHA's/IHA's available funding, or if the solicitation does not request separately priced deductibles, the PHA/IHA shall follow its written policy and procedures in making any award under this solicitation.

(c) In the case of tie low bids, award shall be made in accordance with the PHA's/IHA's written policy and procedures.

(d) The PHA/IHA may reject any and all bids, accept other than the lowest bid (e.g., the apparent low bid is unreasonably low), and waive informalities or minor irregularities in bids received, in accordance with the PHA's/IHA's written policy and procedures.

(e) Unless precluded elsewhere in the solicitation, the PHA/IHA may accept any item or combination of items bid.

(f) The PHA/IHA may reject any bid as nonresponsive if it is materially unbalanced as to the prices for the various items of work to be performed. A bid is materially unbalanced when it is based on prices significantly less than cost for some work and prices which are significantly overstated for other work.

(g) A written award shall be furnished to the successful bidder within the period for acceptance specified in the bid and shall result in a binding contract without further action by either party.

9. Bid Guarantee (applicable to construction and equipment contracts exceeding \$25,000)

All bids must be accompanied by a negotiable bid guarantee which shall not be less than five percent (5%) of the amount of the bid. The bid guarantee may be a certified check, bank draft, U.S. Government Bonds at par value, or a bid bond secured by a surety company acceptable to the U.S. Government and authorized to do business in the state where the work is to be performed. In the case where the work under the contract will be performed on an Indian reservation area, the bid guarantee may also be an irrevocable Letter of Credit (see provision 10, Assurance of Completion, below). Certified checks and bank drafts must be made payable to the order of the PHA/IHA. The bid guarantee shall insure the execution of the contract and the furnishing of a method of assurance of completion by the successful bidder as required by the solicitation. Failure to submit a bid guarantee with the bid shall result in the rejection of the bid. Bid guarantees submitted by unsuccessful bidders will be returned as soon as practicable after bid opening.

10. Assurance of Completion

(a) Unless otherwise provided in State law, the successful bidder shall furnish an assurance of completion prior to the execution of any contract under this solicitation. This assurance may be [Contracting Officer check applicable items] —

[] (1) a performance and payment bond in a penal sum of 100 percent of the contract price; or, as may be required or permitted by State law;

[] (2) separate performance and payment bonds, each for 50 percent or more of the contract price;

[] (3) a 20 percent cash escrow;

[] (4) a 25 percent irrevocable letter of credit; or,

[] (5) an irrevocable letter of credit for 10 percent of the total contract price with a monitoring and disbursements agreement with the IHA (applicable only to contracts awarded by an IHA under the Indian Housing Program).

(b) Bonds must be obtained from guarantee or surety companies acceptable to the U.S. Government and authorized to do business in the state where the work is to be performed. Individual sureties will not be considered. U.S. Treasury Circular Number 570, published annually in the Federal Register, lists companies approved to act as sureties on bonds securing Government contracts, the maximum underwriting limits on each contract bonded, and the States in which the company is licensed to do business. Use of companies listed in this circular is mandatory. Copies of the circular may be downloaded on the U.S. Department of Treasury website <http://www.fms.treas.gov/c570/index.html>, or ordered for a minimum fee by contacting the Government Printing Office at (202) 512-2168.

(c) Each bond shall clearly state the rate of premium and the total amount of premium charged. The current power of attorney for the person who signs for the surety company must be attached to the bond. The effective date of the power of attorney shall not precede the date of the bond. The effective date of the bond shall be on or after the execution date of the contract.

(d) Failure by the successful bidder to obtain the required assurance of completion within the time specified, or within such extended period as the PHA/IHA may grant based upon reasons determined adequate by the PHA/IHA, shall render the bidder ineligible for award. The PHA/IHA may then either award the contract to the next lowest responsible bidder or solicit new bids. The PHA/IHA may retain the ineligible bidder's bid guarantee.

11. Preconstruction Conference (applicable to construction contracts)

After award of a contract under this solicitation and prior to the start of work, the successful bidder will be required to attend a preconstruction conference with representatives of the PHA/IHA and its architect/engineer, and other interested parties convened by the PHA/IHA. The conference will serve to acquaint the participants with the general plan of the construction operation and all other requirements of the contract (e.g., Equal Employment Opportunity, Labor Standards). The PHA/IHA will provide the successful bidder with the date, time, and place of the conference.

12. Indian Preference Requirements (applicable only if this solicitation is for a contract to be performed on a project for an Indian Housing Authority)

(a) HUD has determined that the contract awarded under this solicitation is subject to the requirements of section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e(b)). Section 7(b) requires that any contract or subcontract entered into for the benefit of Indians shall require that, to the greatest extent feasible

(1) Preferences and opportunities for training and employment (other than core crew positions; see paragraph (h) below) in connection with the administration of such contracts or subcontracts be given to qualified "Indians." The Act defines "Indians" to mean persons who are members of an Indian tribe and defines "Indian tribe" to mean any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; and,

(2) Preference in the award of contracts or subcontracts in connection with the administration of contracts be given to Indian organizations and to Indian-owned economic enterprises, as defined in section 3 of the Indian Financing Act of 1974 (25 U.S.C. 1452). That Act defines "economic enterprise" to mean any Indian-owned commercial, industrial, or business activity established or organized for the purpose of profit, except that the Indian ownership must constitute not less than 51 percent of the enterprise; "Indian organization" to mean the governing body of any Indian tribe or entity established or recognized by such governing body; "Indian" to mean any person who is a member of any tribe, band, group, pueblo, or community which is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs and any "Native" as defined in the Alaska Native Claims Settlement Act; and Indian "tribe" to mean any Indian tribe, band, group, pueblo, or community including Native villages and Native groups (including

corporations organized by Kenai, Juneau, Sitka, and Kodiak) as defined in the Alaska Native Claims Settlement Act, which is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs.

(b) (1) The successful Contractor under this solicitation shall comply with the requirements of this provision in awarding all subcontracts under the contract and in providing training and employment opportunities.

(2) A finding by the IHA that the contractor, either (i) awarded a subcontract without using the procedure required by the IHA, (ii) falsely represented that subcontracts would be awarded to Indian enterprises or organizations; or, (iii) failed to comply with the contractor's employment and training preference bid statement shall be grounds for termination of the contract or for the assessment of penalties or other remedies.

(c) If specified elsewhere in this solicitation, the IHA may restrict the solicitation to qualified Indian-owned enterprises and Indian organizations. If two or more (or a greater number as specified elsewhere in the solicitation) qualified Indian-owned enterprises or organizations submit responsive bids, award shall be made to the qualified enterprise or organization with the lowest responsive bid. If fewer than the minimum required number of qualified Indian-owned enterprises or organizations submit responsive bids, the IHA shall reject all bids and readvertise the solicitation in accordance with paragraph (d) below.

(d) If the IHA prefers not to restrict the solicitation as described in paragraph (c) above, or if after having restricted a solicitation an insufficient number of qualified Indian enterprises or organizations submit bids, the IHA may advertise for bids from non-Indian as well as Indian-owned enterprises and Indian organizations. Award shall be made to the qualified Indian enterprise or organization with the lowest responsive bid if that bid is -

(1) Within the maximum HUD-approved budget amount established for the specific project or activity for which bids are being solicited; and

(2) No more than the percentage specified in 24 CFR 905.175(c) higher than the total bid price of the lowest responsive bid from any qualified bidder. If no responsive bid by a qualified Indian-owned economic enterprise or organization is within the stated range of the total bid price of the lowest responsive bid from any qualified enterprise, award shall be made to the bidder with the lowest bid.

(e) Bidders seeking to qualify for preference in contracting or subcontracting shall submit proof of Indian ownership with their bids. Proof of Indian ownership shall include but not be limited to:

(1) Certification by a tribe or other evidence that the bidder is an Indian. The IHA shall accept the certification of a tribe that an individual is a member.

(2) Evidence such as stock ownership, structure, management, control, financing and salary or profit sharing arrangements of the enterprise.

(f) (1) All bidders must submit with their bids a statement describing how they will provide Indian preference in the award of subcontracts. The specific requirements of that statement and the factors to be used by the IHA in determining the statement's adequacy are included as an attachment to this solicitation. Any bid that fails to include the required statement shall be rejected as nonresponsive. The IHA may require that comparable statements be provided by subcontractors to the successful Contractor, and may require the Contractor to reject any bid or proposal by a subcontractor that fails to include the statement.

(2) Bidders and prospective subcontractors shall submit a certification (supported by credible evidence) to the IHA in any instance where the bidder or subcontractor believes it is infeasible to provide Indian preference in subcontracting. The acceptance or rejection by the IHA of the certification shall be final. Rejection shall disqualify the bid from further consideration.

(g) All bidders must submit with their bids a statement detailing their employment and training opportunities and their plans to provide preference to Indians in implementing the contract; and the number or percentage of Indians anticipated to be employed and trained. Comparable statements from all proposed subcontractors must be submitted. The criteria to be used by the IHA in determining the statement(s)'s adequacy are included as an attachment to this solicitation. Any bid that fails to include the required statement(s), or that includes a statement that does not meet minimum standards required by the IHA shall be rejected as nonresponsive.

(h) Core crew employees. A core crew employee is an individual who is a bona fide employee of the contractor at the time the bid is submitted; or an individual who was not employed by the bidder at the time the bid was submitted, but who is regularly employed by the bidder in a supervisory or other key skilled position when work is available. Bidders shall submit with their bids a list of all core crew employees.

(i) Preference in contracting, subcontracting, employment, and training shall apply not only on-site, on the reservation, or within the IHA's jurisdiction, but also to contracts with firms that operate outside these areas (e.g., employment in modular or manufactured housing construction facilities).

(j) Bidders should contact the IHA to determine if any additional local preference requirements are applicable to this solicitation.

(k) The IHA [] does [] does not [Contracting Officer check applicable box] maintain lists of Indian-owned economic enterprises and Indian organizations by specialty (e.g., plumbing, electrical, foundations), which are available to bidders to assist them in meeting their responsibility to provide preference in connection with the administration of contracts and subcontracts.

**U.S. Department of Housing
and Urban Development**
Office of Public and Indian Housing

**Representations, Certifications,
and Other Statements of Bidders**
Public and Indian Housing Programs

Representations, Certifications, and Other Statements of Bidders

Public and Indian Housing Programs

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1. Certificate of Independent Price Determination

(a) The bidder certifies that--

(1) The prices in this bid have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other bidder or competitor relating to (i) those prices, (ii) the intention to submit a bid, or (iii) the methods or factors used to calculate the prices offered;

(2) The prices in this bid have not been and will not be knowingly disclosed by the bidder, directly or indirectly, to any other bidder or competitor before bid opening (in the case of a sealed bid solicitation) or contract award (in the case of a competitive proposal solicitation) unless otherwise required by law; and

(3) No attempt has been made or will be made by the bidder to induce any other concern to submit or not to submit a bid for the purpose of restricting competition.

(b) Each signature on the bid is considered to be a certification by the signatory that the signatory--

(1) Is the person in the bidder's organization responsible for determining the prices being offered in this bid or proposal, and that the signatory has not participated and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above; or

(2) (i) Has been authorized, in writing, to act as agent for the following principals in certifying that those principals have not participated, and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above.

_____ [insert full name of person(s) in the bidder's organization responsible for determining the prices offered in this bid or proposal, and the title of his or her position in the bidder's organization];

(ii) As an authorized agent, does certify that the principals named in subdivision (b)(2)(i) above have not participated, and will not participate, in any action contrary to subparagraphs (a)(1) through (a)(3) above; and

(iii) As an agent, has not personally participated, and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above.

(c) If the bidder deletes or modifies subparagraph (a)2 above, the bidder must furnish with its bid a signed statement setting forth in detail the circumstances of the disclosure.

[] [Contracting Officer check if following paragraph is applicable]

(d) Non-collusive affidavit. (applicable to contracts for construction and equipment exceeding \$50,000)

(1) Each bidder shall execute, in the form provided by the PHA/IHA, an affidavit to the effect that he/she has not colluded with any other person, firm or corporation in regard to any bid submitted in response to this solicitation. If the successful bidder did not submit the affidavit with his/her bid, he/she must submit it within three (3) working days of bid opening. Failure to submit the affidavit by that date may render the bid nonresponsive. No contract award will be made without a properly executed affidavit.

(2) A fully executed "Non-collusive Affidavit" [] is, [] is not included with the bid.

2. Contingent Fee Representation and Agreement

(a) Definitions. As used in this provision:

"Bona fide employee" means a person, employed by a bidder and subject to the bidder's supervision and control as to time, place, and manner of performance, who neither exerts, nor proposes to exert improper influence to solicit or obtain contracts nor holds out as being able to obtain any contract(s) through improper influence.

"Improper influence" means any influence that induces or tends to induce a PHA/IHA employee or officer to give consideration or to act regarding a PHA/IHA contract on any basis other than the merits of the matter.

(b) The bidder represents and certifies as part of its bid that, except for full-time bona fide employees working solely for the bidder, the bidder:

(1) [] has, [] has not employed or retained any person or company to solicit or obtain this contract; and

(2) [] has, [] has not paid or agreed to pay to any person or company employed or retained to solicit or obtain this contract any commission, percentage, brokerage, or other fee contingent upon or resulting from the award of this contract.

(c) If the answer to either (a)(1) or (a)(2) above is affirmative, the bidder shall make an immediate and full written disclosure to the PHA/IHA Contracting Officer.

(d) Any misrepresentation by the bidder shall give the PHA/IHA the right to (1) terminate the contract; (2) at its discretion, deduct from contract payments the amount of any commission, percentage, brokerage, or other contingent fee; or (3) take other remedy pursuant to the contract.

3. Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions (applicable to contracts exceeding \$100,000)

(a) The definitions and prohibitions contained in Section 1352 of title 31, United States Code, are hereby incorporated by reference in paragraph (b) of this certification.

(b) The bidder, by signing its bid, hereby certifies to the best of his or her knowledge and belief as of December 23, 1989 that:

(1) No Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with the awarding of a contract resulting from this solicitation;

(2) If any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with this solicitation, the bidder shall complete and submit, with its bid, OMB standard form LLL, "Disclosure of Lobbying Activities;" and

(3) He or she will include the language of this certification in all subcontracts at any tier and require that all recipients of subcontract awards in excess of \$100,000 shall certify and disclose accordingly.

(c) Submission of this certification and disclosure is a prerequisite for making or entering into this contract imposed by section 1352, title 31, United States Code. Any person who makes an expenditure prohibited under this provision or who fails to file or amend the disclosure form to be filed or amended by this provision, shall be subject to a civil penalty of not less than \$10,000, and not more than \$100,000, for each such failure.

(d) Indian tribes (except those chartered by States) and Indian organizations as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450B) are exempt from the requirements of this provision.

4. Organizational Conflicts of Interest Certification

The bidder certifies that to the best of its knowledge and belief and except as otherwise disclosed, he or she does not have any organizational conflict of interest which is defined as a situation in which the nature of work to be performed under this proposed contract and the bidder's organizational, financial, contractual, or other interests may, without some restriction on future activities:

- (a) Result in an unfair competitive advantage to the bidder; or,
- (b) Impair the bidder's objectivity in performing the contract work.

[] In the absence of any actual or apparent conflict, I hereby certify that to the best of my knowledge and belief, no actual or apparent conflict of interest exists with regard to my possible performance of this procurement.

5. Bidder's Certification of Eligibility

(a) By the submission of this bid, the bidder certifies that to the best of its knowledge and belief, neither it, nor any person or firm which has an interest in the bidder's firm, nor any of the bidder's subcontractors, is ineligible to:

(1) Be awarded contracts by any agency of the United States Government, HUD, or the State in which this contract is to be performed; or,

(2) Participate in HUD programs pursuant to 24 CFR Part 24.

(b) The certification in paragraph (a) above is a material representation of fact upon which reliance was placed when making award. If it is later determined that the bidder knowingly rendered an erroneous certification, the contract may be terminated for default, and the bidder may be debarred or suspended from participation in HUD programs and other Federal contract programs.

6. Minimum Bid Acceptance Period

(a) "Acceptance period," as used in this provision, means the number of calendar days available to the PHA/IHA for awarding a contract from the date specified in this solicitation for receipt of bids.

(b) This provision supersedes any language pertaining to the acceptance period that may appear elsewhere in this solicitation.

(c) The PHA/IHA requires a minimum acceptance period of [Contracting Officer insert time period] calendar days.

(d) In the space provided immediately below, bidders may specify a longer acceptance period than the PHA's/IHA's minimum requirement. The bidder allows the following acceptance period: calendar days.

(e) A bid allowing less than the PHA's/IHA's minimum acceptance period will be rejected.

(f) The bidder agrees to execute all that it has undertaken to do, in compliance with its bid, if that bid is accepted in writing within (1) the acceptance period stated in paragraph (c) above or (2) any longer acceptance period stated in paragraph (d) above.

7. Small, Minority, Women-Owned Business Concern Representation

The bidder represents and certifies as part of its bid/ offer that it --

(a) [] is, [] is not a small business concern. "Small business concern," as used in this provision, means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding, and qualified as a small business under the criteria and size standards in 13 CFR 121.

(b) [] is, [] is not a women-owned business enterprise. "Women-owned business enterprise," as used in this provision, means a business that is at least 51 percent owned by a woman or women who are U.S. citizens and who also control and operate the business.

(c) [] is, [] is not a minority business enterprise. "Minority business enterprise," as used in this provision, means a business which is at least 51 percent owned or controlled by one or more minority group members or, in the case of a publicly owned business, at least 51 percent of its voting stock is owned by one or more minority group members, and whose management and daily operations are controlled by one or more such individuals. For the purpose of this definition, minority group members are:

(Check the block applicable to you)

- | | |
|------------------------|------------------------------|
| [] Black Americans | [] Asian Pacific Americans |
| [] Hispanic Americans | [] Asian Indian Americans |
| [] Native Americans | [] Hasidic Jewish Americans |

8. Indian-Owned Economic Enterprise and Indian Organization Representation (applicable only if this solicitation is for a contract to be performed on a project for an Indian Housing Authority)

The bidder represents and certifies that it:

(a) [] is, [] is not an Indian-owned economic enterprise. "Economic enterprise," as used in this provision, means any commercial, industrial, or business activity established or organized for the purpose of profit, which is at least 51 percent Indian owned. "Indian," as used in this provision, means any person who is a member of any tribe, band, group, pueblo, or community which is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs and any "Native" as defined in the Alaska Native Claims Settlement Act.

(b) [] is, [] is not an Indian organization. "Indian organization," as used in this provision, means the governing body of any Indian tribe or entity established or recognized by such governing body. Indian "tribe" means any Indian tribe, band, group, pueblo, or

community including Native villages and Native groups (including corporations organized by Kenai, Juneau, Sitka, and Kodiak) as defined in the Alaska Native Claims Settlement Act, which is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs.

9. Certification of Eligibility Under the Davis-Bacon Act (applicable to construction contracts exceeding \$2,000)

(a) By the submission of this bid, the bidder certifies that neither it nor any person or firm who has an interest in the bidder's firm is a person or firm ineligible to be awarded contracts by the United States Government by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(b) No part of the contract resulting from this solicitation shall be subcontracted to any person or firm ineligible to be awarded contracts by the United States Government by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(c) The penalty for making false statements is prescribed in the U. S. Criminal Code, 18 U.S.C. 1001.

10. Certification of Nonsegregated Facilities (applicable to contracts exceeding \$10,000)

(a) The bidder's attention is called to the clause entitled **Equal Employment Opportunity** of the General Conditions of the Contract for Construction.

(b) "Segregated facilities," as used in this provision, means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees, that are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, or national origin because of habit, local custom, or otherwise.

(c) By the submission of this bid, the bidder certifies that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. The bidder agrees that a breach of this certification is a violation of the Equal Employment Opportunity clause in the contract.

(d) The bidder further agrees that (except where it has obtained identical certifications from proposed subcontractors for specific time periods) prior to entering into subcontracts which exceed \$10,000 and are not exempt from the requirements of the Equal Employment Opportunity clause, it will:

- (1) Obtain identical certifications from the proposed subcontractors;
- (2) Retain the certifications in its files; and
- (3) Forward the following notice to the proposed subcontractors (except if the proposed subcontractors have submitted identical certifications for specific time periods):

Notice to Prospective Subcontractors of Requirement for Certifications of Nonsegregated Facilities

A Certification of Nonsegregated Facilities must be submitted before the award of a subcontract exceeding \$10,000 which is not exempt from the provisions of the Equal Employment Opportunity clause of the prime contract. The certification may be submitted either for each subcontract or for all subcontracts during a period (i.e., quarterly, semiannually, or annually).

Note: The penalty for making false statements in bids is prescribed in 18 U.S.C. 1001.

11. Clean Air and Water Certification (applicable to contracts exceeding \$100,000)

The bidder certifies that:

(a) Any facility to be used in the performance of this contract [] is, [] is not listed on the Environmental Protection Agency List of Violating Facilities:

(b) The bidder will immediately notify the PHA/IHA Contracting Officer, before award, of the receipt of any communication from the Administrator, or a designee, of the Environmental Protection Agency, indicating that any facility that the bidder proposes to use for the performance of the contract is under consideration to be listed on the EPA List of Violating Facilities; and,

(c) The bidder will include a certification substantially the same as this certification, including this paragraph (c), in every nonexempt subcontract.

12. Previous Participation Certificate (applicable to construction and equipment contracts exceeding \$50,000)

(a) The bidder shall complete and submit with his/her bid the Form HUD-2530, "Previous Participation Certificate." If the successful bidder does not submit the certificate with his/her bid, he/she must submit it within three (3) working days of bid opening. Failure to submit the certificate by that date may render the bid nonresponsive. No contract award will be made without a properly executed certificate.

(b) A fully executed "Previous Participation Certificate" [] is, [] is not included with the bid.

13. Bidder's Signature

The bidder hereby certifies that the information contained in these certifications and representations is accurate, complete, and current.

(Signature and Date)

(Typed or Printed Name)

(Title)

(Company Name)

(Company Address)

Instructions to Offerors Non-Construction

U.S. Department of Housing
and Urban Development
Office of Public and Indian Housing



- 03291 -

1. Preparation of Offers

(a) Offerors are expected to examine the statement of work, the proposed contract terms and conditions, and all instructions. Failure to do so will be at the offeror's risk.

(b) Each offeror shall furnish the information required by the solicitation. The offeror shall sign the offer and print or type its name on the cover sheet and each continuation sheet on which it makes an entry. Erasures or other changes must be initialed by the person signing the offer. Offers signed by an agent shall be accompanied by evidence of that agent's authority, unless that evidence has been previously furnished to the HA.

(c) Offers for services other than those specified will not be considered.

2. Submission of Offers

(a) Offers and modifications thereof shall be submitted in sealed envelopes or packages (1) addressed to the office specified in the solicitation, and (2) showing the time specified for receipt, the solicitation number, and the name and address of the offeror.

(b) Telegraphic offers will not be considered unless authorized by the solicitation; however, offers may be modified by written or telegraphic notice.

(c) Facsimile offers, modifications or withdrawals will not be considered unless authorized by the solicitation.

3. Amendments to Solicitations

(a) If this solicitation is amended, then all terms and conditions which are not modified remain unchanged.

(b) Offerors shall acknowledge receipt of any amendments to this solicitation by

- (1) signing and returning the amendment;
- (2) identifying the amendment number and date in the space provided for this purpose on the form for submitting an offer,
- (3) letter or telegram, or
- (4) facsimile, if facsimile offers are authorized in the solicitation. The HA/HUD must receive the acknowledgment by the time specified for receipt of offers.

4. Explanation to Prospective Offerors

Any prospective offeror desiring an explanation or interpretation of the solicitation, statement of work, etc., must request it in writing soon enough to allow a reply to reach all prospective offerors before the submission of their offers. Oral explanations or instructions given before the award of the contract will not be binding. Any information given to a prospective offeror concerning a solicitation will be furnished promptly to all other prospective offerors as an amendment of the solicitation, if that information is necessary in submitting offers or if the lack of it would be prejudicial to any other prospective offerors.

5. Responsibility of Prospective Contractor

(a) The HA shall award a contract only to a responsible prospective contractor who is able to perform successfully under the terms and conditions of the proposed contract. To be determined responsible, a prospective contractor must -

- (1) Have adequate financial resources to perform the contract, or the ability to obtain them;

- (2) Have a satisfactory performance record;
- (3) Have a satisfactory record of integrity and business ethics;
- (4) Have a satisfactory record of compliance with public policy (e.g., Equal Employment Opportunity); and
- (5) Not have been suspended, debarred, or otherwise determined to be ineligible for award of contracts by the Department of Housing and Urban Development or any other agency of the U.S. Government. Current lists of ineligible contractors are available for inspection at the HA/HUD.

(b) Before an offer is considered for award, the offeror may be requested by the HA to submit a statement or other documentation regarding any of the foregoing requirements. Failure by the offeror to provide such additional information may render the offeror ineligible for award.

6. Late Submissions, Modifications, and Withdrawal of Offers

(a) Any offer received at the place designated in the solicitation after the exact time specified for receipt will not be considered unless it is received before award is made and it -

- (1) Was sent by registered or certified mail not later than the fifth calendar day before the date specified for receipt of offers (e.g., an offer submitted in response to a solicitation requiring receipt of offers by the 20th of the month must have been mailed by the 15th);
- (2) Was sent by mail, or if authorized by the solicitation, was sent by telegram or via facsimile, and it is determined by the HA/ HUD that the late receipt was due solely to mishandling by the HA/ HUD after receipt at the HA;
- (3) Was sent by U.S. Postal Service Express Mail Next Day Service - Post Office to Addressee, not later than 5:00 p.m. at the place of mailing two working days prior to the date specified for receipt of proposals. The term "working days" excludes weekends and U.S. Federal holidays; or
- (4) Is the only offer received.

(b) Any modification of an offer, except a modification resulting from the HA's request for "best and final" offer (if this solicitation is a request for proposals), is subject to the same conditions as in subparagraphs (a)(1), (2), and (3) of this provision.

(c) A modification resulting from the HA's request for "best and final" offer received after the time and date specified in the request will not be considered unless received before award and the late receipt is due solely to mishandling by the HA after receipt at the HA.

(d) The only acceptable evidence to establish the date of mailing of a late offer, modification, or withdrawal sent either by registered or certified mail is the U.S. or Canadian Postal Service postmark both on the envelope or wrapper and on the original receipt from the U.S. or Canadian Postal Service. Both postmarks must show a legible date or the offer, modification, or withdrawal shall be processed as if mailed late. "Postmark" means a printed, stamped, or otherwise placed impression (exclusive of a postage meter machine impression) that is readily identifiable without further action as having been supplied and affixed by employees of the U.S. or Canadian Postal Service on the date of mailing. Therefore, offerors should request the postal clerk to place a hand cancellation bull's-eye postmark on both the receipt and the envelope or wrapper.

(e) The only acceptable evidence to establish the time of receipt at the HA is the time/date stamp of HA on the offer wrapper or other documentary evidence of receipt maintained by the HA.

(f) The only acceptable evidence to establish the date of mailing of a late offer, modification, or withdrawal sent by Express Mail Next Day Service-Post Office to Addressee is the date entered by the post office receiving clerk on the "Express Mail Next Day Service-Post Office to Addressee" label and the postmark on both the envelope or wrapper and on the original receipt from the U.S. Postal Service. "Postmark" has the same meaning as defined in paragraph (c) of this provision, excluding postmarks of the Canadian Postal Service. Therefore, offerors should request the postal clerk to place a legible hand cancellation bull's eye postmark on both the receipt and the envelope or wrapper.

(g) Notwithstanding paragraph (a) of this provision, a late modification of an otherwise successful offer that makes its terms more favorable to the HA will be considered at any time it is received and may be accepted.

(h) If this solicitation is a request for proposals, proposals may be withdrawn by written notice, or if authorized by this solicitation, by telegram (including mailgram) or facsimile machine transmission received at any time before award. Proposals may be withdrawn in person by a offeror or its authorized representative if the identity of the person requesting withdrawal is established and the person signs a receipt for the offer before award. If this solicitation is an invitation for bids, bids may be withdrawn at any time prior to bid opening.

7. Contract Award

(a) The HA will award a contract resulting from this solicitation to the responsible offeror whose offer conforming to the solicitation will be most advantageous to the HA, cost or price and other factors, specified elsewhere in this solicitation, considered.

(b) The HA may

- (1) reject any or all offers if such action is in the HA's interest,
- (2) accept other than the lowest offer,
- (3) waive informalities and minor irregularities in offers received, and (4) award more than one contract for all or part of the requirements stated.

(c) If this solicitation is a request for proposals, the HA may award a contract on the basis of initial offers received, without discussions. Therefore, each initial offer should contain the offeror's best terms from a cost or price and technical standpoint.

(d) A written award or acceptance of offer mailed or otherwise furnished to the successful offeror within the time for acceptance specified in the offer shall result in a binding contract without further action by either party. If this solicitation is a request for proposals, before the offer's specified expiration time, the HA may accept an offer, whether or not there are negotiations after its receipt, unless a written notice of withdrawal is received before award. Negotiations conducted after receipt of an offer do not constitute a rejection or counteroffer by the HA.

(e) Neither financial data submitted with an offer, nor representations concerning facilities or financing, will form a part of the resulting contract.

8. Service of Protest

Any protest against the award of a contract pursuant to this solicitation shall be served on the HA by obtaining written and dated acknowledgment of receipt from the HA at the address shown on the cover of this solicitation. The determination of the HA with regard to such protest or to proceed to award notwithstanding such protest shall be final unless appealed by the protestor.

9. Offer Submission

Offers shall be submitted as follows and shall be enclosed in a sealed envelope and addressed to the office specified in the solicitation. The proposal shall show **the hour and date specified in the solicitation for receipt, the solicitation number, and the name and address of the offeror, on the face of the envelope.**

It is very important that the offer be properly identified on the face of the envelope as set forth above in order to insure that the date and time of receipt is stamped on the face of the offer envelope. Receiving procedures are: date and time stamp those envelopes identified as proposals and deliver them immediately to the appropriate contracting official, and only date stamp those envelopes which do not contain identification of the contents and deliver them to the appropriate procuring activity only through the routine mail delivery procedure.

[Describe bid or proposal preparation instructions here:]

Certifications and Representations of Offerors Non-Construction Contract

Public reporting burden for this collection of information is estimated to average 5 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

This form includes clauses required by OMB's common rule on bidding/offering procedures, implemented by HUD in 24 CFR 85.36, and those requirements set forth in Executive Order 11625 for small, minority, women-owned businesses, and certifications for independent price determination, and conflict of interest. The form is required for nonconstruction contracts awarded by Housing Agencies (HAs). The form is used by bidders/offerors to certify to the HA's Contracting Officer for contract compliance. If the form were not used, HAs would be unable to enforce their contracts. Responses to the collection of information are required to obtain a benefit or to retain a benefit. The information requested does not lend itself to confidentiality.

1. Contingent Fee Representation and Agreement

(a) The bidder/offeror represents and certifies as part of its bid/offer that, except for full-time bona fide employees working solely for the bidder/offeror, the bidder/offeror:

- (1) has, has not employed or retained any person or company to solicit or obtain this contract; and
- (2) has, has not paid or agreed to pay to any person or company employed or retained to solicit or obtain this contract any commission, percentage, brokerage, or other fee contingent upon or resulting from the award of this contract.

(b) If the answer to either (a)(1) or (a) (2) above is affirmative, the bidder/offeror shall make an immediate and full written disclosure to the PHA Contracting Officer.

(c) Any misrepresentation by the bidder/offeror shall give the PHA the right to (1) terminate the resultant contract; (2) at its discretion, to deduct from contract payments the amount of any commission, percentage, brokerage, or other contingent fee; or (3) take other remedy pursuant to the contract.

2. Small, Minority, Women-Owned Business Concern Representation

The bidder/offeror represents and certifies as part of its bid/offer that it:

- (a) is, is not a small business concern. "Small business concern," as used in this provision, means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding, and qualified as a small business under the criteria and size standards in 13 CFR 121.
- (b) is, is not a women-owned small business concern. "Women-owned," as used in this provision, means a small business that is at least 51 percent owned by a woman or women who are U.S. citizens and who also control and operate the business.
- (c) is, is not a minority enterprise which, pursuant to Executive Order 11625, is defined as a business which is at least 51 percent owned by one or more minority group members or, in the case of a publicly owned business, at least 51 percent of its voting stock is owned by one or more minority group members, and whose management and daily operations are controlled by one or more such individuals.

For the purpose of this definition, minority group members are:

(Check the block applicable to you)

- | | |
|---|---|
| <input type="checkbox"/> Black Americans | <input type="checkbox"/> Asian Pacific Americans |
| <input type="checkbox"/> Hispanic Americans | <input type="checkbox"/> Asian Indian Americans |
| <input type="checkbox"/> Native Americans | <input type="checkbox"/> Hasidic Jewish Americans |

3. Certificate of Independent Price Determination

(a) The bidder/offeror certifies that—

- (1) The prices in this bid/offer have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other bidder/offeror or competitor relating to (i) those prices, (ii) the intention to submit a bid/offer, or (iii) the methods or factors used to calculate the prices offered;
- (2) The prices in this bid/offer have not been and will not be knowingly disclosed by the bidder/offeror, directly or indirectly, to any other bidder/offeror or competitor before bid opening (in the case of a sealed bid solicitation) or contract award (in the case of a negotiated solicitation) unless otherwise required by law; and
- (3) No attempt has been made or will be made by the bidder/offeror to induce any other concern to submit or not to submit a bid/offer for the purpose of restricting competition.

(b) Each signature on the bid/offer is considered to be a certification by the signatory that the signatory:

- (1) Is the person in the bidder/offeror's organization responsible for determining the prices being offered in this bid or proposal, and that the signatory has not participated and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above; or
- (2) (i) Has been authorized, in writing, to act as agent for the following principals in certifying that those principals have not participated, and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above (insert full name of person(s) in the bidder/offeror's organization responsible for determining the prices offered in this bid or proposal, and the title of his or her position in the bidder/offeror's organization);
(ii) As an authorized agent, does certify that the principals named in subdivision (b)(2)(i) above have not participated, and will not participate, in any action contrary to subparagraphs (a)(1) through (a)(3) above; and

(iii) As an agent, has not personally participated, and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above.

(c) If the bidder/offeror deletes or modifies subparagraph (a)2 above, the bidder/offeror must furnish with its bid/offer a signed statement setting forth in detail the circumstances of the disclosure.

4. Organizational Conflicts of Interest Certification

(a) The Contractor warrants that to the best of its knowledge and belief and except as otherwise disclosed, it does not have any organizational conflict of interest which is defined as a situation in which the nature of work under a proposed contract and a prospective contractor's organizational, financial, contractual or other interest are such that:

- (i) Award of the contract may result in an unfair competitive advantage;
- (ii) The Contractor's objectivity in performing the contract work may be impaired; or
- (iii) That the Contractor has disclosed all relevant information and requested the HA to make a determination with respect to this Contract.

(b) The Contractor agrees that if after award he or she discovers an organizational conflict of interest with respect to this contract, he or she shall make an immediate and full disclosure in writing to the HA which shall include a description of the action which the Contractor has taken or intends to eliminate or neutralize the conflict. The HA may, however, terminate the Contract for the convenience of HA if it would be in the best interest of HA.

(c) In the event the Contractor was aware of an organizational conflict of interest before the award of this Contract and intentionally did not disclose the conflict to the HA, the HA may terminate the Contract for default.

(d) The Contractor shall require a disclosure or representation from subcontractors and consultants who may be in a position to influence the advice or assistance rendered to the HA and shall include any necessary provisions to eliminate or neutralize conflicts of interest in consultant agreements or subcontracts involving performance or work under this Contract.

5. Authorized Negotiators (RFPs only)

The offeror represents that the following persons are authorized to negotiate on its behalf with the PHA in connection with this request for proposals: (list names, titles, and telephone numbers of the authorized negotiators):

6. Conflict of Interest

In the absence of any actual or apparent conflict, the offeror, by submission of a proposal, hereby warrants that to the best of its knowledge and belief, no actual or apparent conflict of interest exists with regard to my possible performance of this procurement, as described in the clause in this solicitation titled "Organizational Conflict of Interest."

7. Offeror's Signature

The offeror hereby certifies that the information contained in these certifications and representations is accurate, complete, and current.

Signature & Date:

Typed or Printed Name:

Title:

**Equal Employment
Opportunity Certification**
Excerpt From 41 CFR §60-1.4(b)

**U.S. Department of Housing
and Urban Development**
Office of Housing
Federal Housing Commissioner

Department of Veterans Affairs
OMB Control No. 2502-0029
(exp. 4/30/2020)

The applicant hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the following equal opportunity clause:

During the performance of this contract, the contractor agrees as follows:

- (1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, 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. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- (2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.
- (3) The contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (4) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor.
- (5) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

- (6) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (7) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: **Provided, however,** That in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work:

Provided, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and Federally-assisted construction contracts pursuant to the Executive order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed

Firm Name and Address	By
	Title

upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

Excerpt from HUD Regulations

200.410 Definition of term "applicant".

- (a) In multifamily housing transactions where controls over the mortgagor are exercised by the Commissioner either through the ownership of corporate stock or under the provisions of a regulatory agreement, the term "applicant" as used in this subpart shall mean the mortgagor.
- (b) In transactions other than those specified in paragraph(a) of this section, the term "applicant" as used in this subpart shall mean the builder, dealer or contractor performing the construction, repair or rehabilitation work for the mortgagor or other borrower.

200.420 Equal Opportunity Clause to be included in contracts and subcontracts.

- (a) The following equal opportunity clause shall be included in each contract and subcontract which is not exempt:

During the performance of this contract, the contractor agrees as follows:

- (1) The contractor will not discriminate against any employee or applicant for employment because of race, creed, color, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, creed, color, 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. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of the nondiscrimination clause.

- (2) The contractor will in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard race, creed, color, or national origin.

- (3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided, advising the said labor union or workers' representative of the contractor's commitments under this section, and shall post copies of the notices in conspicuous places available to employees and applicants for employment.

- (4) The contractor will comply with all provisions of Executive Order 10925 of March 6 1961, as amended, and of the regulations, and relevant orders of the President's Committee on Equal Employment Opportunity created thereby.

- (5) The contractor will furnish all information and reports required by Executive Order 10925 of March 6, 1961, as amended, and by the regulations, and orders of the said Committee, or pursuant thereto, and will permit access to his books, records, and accounts by HUD and the Committee for purposes of investigation to ascertain compliance with such regulations, and orders.

- (6) In the event of the contractor's non-compliance with the nondiscrimination clause of this contract or with any of the said regulations, or orders, this contract may be cancelled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or Federally-assisted construction contracts in accordance with procedures authorized in Executive Order 10925 of March 6, 1961, as amended, and such other sanctions may be imposed and remedies invoked provided in the said Executive Order or by regulations, or order of the President's Committee on Equal Employment Opportunity, or as otherwise provided by law.

- (7) The contractor will include the provisions of Paragraphs(1) through (7) in every subcontract or purchase order unless exempted by regulations, or orders of the President's Committee on Equal Employment Opportunity issued pursuant to Section 303 of Executive Order 10925 of March 6, 1961, as amended, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase orders as HUD may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by HUD, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

- (b) Except in subcontracts for the performance of construction work at the site of construction, the clause is not required to be inserted in subcontracts below the second tier. Subcontracts may incorporate by reference to the equal opportunity clause.

200.425 Modification in and exemptions from the regulations in this subpart.

- (a) The following transactions and contracts are exempt from the regulations in this subpart:

- (1) Loans, mortgages, contracts and subcontracts not exceeding \$10,000.

- (2) Contract and subcontracts not exceeding \$100,000 for standard commercial supplies or raw material;

- (3) Contracts and subcontracts under which work is to be or has been performed outside the United States and where no recruitment of workers within the United States is involved. To the extent that work pursuant to such contracts is done within the United States, the equal opportunity clause shall be applicable;

- (4) Contracts for the sale of Government property where no appreciable amount of work is involved; and

- (5) Contracts and subcontracts for an indefinite quantity which are not to extend for more than one year if the purchaser determines that the amounts to be ordered under any such contract or subcontract are not reasonably expected to exceed \$100,000 in the case of contracts or subcontracts for standard commercial supplies and raw materials, or \$10,000 in the case of all other contracts and subcontracts.



RFP PROPOSAL FORM
Elevator Preventive Maintenance Service
RFP #24-02-001

SWORN STATEMENT PURSUANT TO SECTION 287.133(3)(a), FLORIDA
STATUTES, ON PUBLIC ENTITY CRIMES

THIS FORM MUST BE SIGNED AND SWORN TO IN THE PRESENCE OF A NOTARY PUBLIC
OR OTHER OFFICIAL AUTHORIZED TO ADMINISTER OATHS.

1. This sworn statement is submitted to **Hialeah Housing Authority**

by _____
(Name) (Title)

for _____
(Company name)

whose business address is:

(address) (city) (state) (ZIP)

and (if applicable) its Federal Employer Identification Number (FEIN) is

(If the entity has no FEIN, include Social Security Number of the individual signing this sworn
statement: _____.

2. I understand that a “public entity crime” as defined in Paragraph 287.133(1)(g), Florida Statutes, means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or of the United States, including, but not limited to, any bid or contract for goods or services to be provided to any public entity or an agency or political subdivision of any other state or of the United States, including, but not limited to, any bid or contract for goods or services to be provided to any public entity or an agency or political subdivision of any other state or of the United States and involving antitrust, fraud, bribery, collusion, racketeering, conspiracy, or material misrepresentation.

3. I understand that “convicted” or “conviction” as defined in Paragraph 287.133(1)(b), Florida Statutes, means a finding of guilt or a conviction of a public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to changes brought to indictment or information after July 1, 1989, as a result of a jury verdict, non-jury trial, or entry of a plea of guilty or nolo contendere.



RFP PROPOSAL FORM
Elevator Preventive Maintenance Service
RFP #24-02-001

4. I understand that an “affiliate” as defined in Paragraph 287.133(1)(a), Florida Statutes, means:
- a. A predecessor or successor of a person convicted of a public entity crime; or
 - b. An entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime. The term “affiliate” includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate. The ownership by one person of shares constituting a controlling interest in another person, or a pooling of equipment or income among persons when not for fair market value under an arm’s length agreement, shall be a prima facie case that one person controls another person. A person who knowingly enters into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months shall be considered an affiliate.

5. I understand that a “person” as defined in Paragraph 287.133(1)(e), Florida Statutes, means any natural person or entity organized under the laws of any state or of the United States with the legal power to enter into a binding contract and which bids or applies to bid on contracts for the provision of goods or services let by a public entity, or which otherwise transacts or applies to transact business with a public entity. The term “person” includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in management of an entity.

6. Based on information and belief, the statement which I have marked below is true in relation to the entity submitting this sworn statement. [Indicate which statement applies.]

_____ Neither the entity submitting this sworn statement, nor any of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, nor any affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989.

_____ The entity submitting this sworn statement, or one or more of its officers, directors’ executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989

_____ The entity submitting this sworn statement, or one or more of its officers, directors’ executives, partners, shareholders, employees, members, or agents who are active in the



RFP PROPOSAL FORM
Elevator Preventive Maintenance Service
RFP #24-02-001

management of the entity, or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989. However, there has been a subsequent proceeding before a Hearing Officer of the State of Florida, Division of Administrative Hearings and the Final Order entered by the Hearing Officer determined that it was not in the public interest to place the entity submitting this sworn statement on the convicted vendor list. [Attach a copy of the final order]

I UNDERSTAND THAT THE SUBMISSION OF THIS FORM TO THE CONTRACTING OFFICER FOR THE PUBLIC ENTITY IDENTIFIED IN PARAGRAPH 1 (ONE) ABOVE IS FOR THE PUBLIC ENTITY ONLY AND, THAT THIS FORM IS VALID THROUGH DECEMBER 31 OF THE CALENDAR YEAR IN WHICH IT IS FILED. I ALSO UNDERSTAND THAT I AM REQUIRED TO INFORM THE PUBLIC ENTITY PRIOR TO ENTERING INTO A CONTRACT IN EXCESS OF THE THRESHOLD AMOUNT PROVIDED IN SECTION 287.017, FLORIDA STATUTES FOR CATEGORY TWO OF ANY CHANGE IN THE INFORMATION CONTAINED IN THIS FORM.

[SIGNATURE]

Notary Public - State of _____

Sworn and subscribed before me this _____ day of _____,

_____. Personally known _____ OR produced identification _____

Notary Public Signature _____ My commission expires _____

NOTARY STAMP



NON-COLLUSIVE AFFIDAVIT
Elevator Preventive
Maintenance Services
RFP #24-02-001
 NCA 1

Non-Collusive Affidavit

(Must Be Signed and Notarized)

 (Company Name)

State of _____

County of _____

_____, being first duly sworn,
 (Company representative)

deposes and says:

That he is _____ who is the party making the
 (a partner or officer of the firm, etc.)

foregoing proposal or bid, that such proposal or bid is genuine and not collusive or sham; that said bidder has not colluded, conspired, connived or agreed, directly or indirectly, with any bidder or person, to put in a sham bid or to refrain from bidding, and has not in any manner, directly or indirectly, sought by agreement or collusion, or communication or conference, with any person, to fix the bid price of affiance or of any other bidder, or to fix any overhead, profit or cost element or said bid price, or of that of any other bidder, or to secure any advantage against the **Hialeah Housing Authority** or any person interested in the proposed contract; and that all statements in said proposal or bid are true.

 Signature of bidder, if the bidder is an individual

 Partner, if the bidder is a partnership

 Officer, if the bidder is a corporation

Subscribed and sworn before me this _____ day of _____, _____.

 My Commission Expires on _____, _____.



**Elevator Preventive Maintenance Services
RFP #24-02-001**

**REPRESENTATIVE'S CERTIFICATION OF AUTHORIZATION TO
EXECUTE BID/CONTRACT ON BEHALF OF COMPANY**

I, _____ certify that I am the authorized representative of _____, who signed this Contract on behalf of said corporation; that said Contract was duly signed for and in behalf of said corporation by authority of its governing body, and is within the scope of its corporate powers.

Affix Corporate Seal:

By: _____

Title: _____

Date: _____



RFP #24-02-001
APPROVAL OF SUBCONTRACTORS
 (If none used, so state below)
 SCL-1



NAME & ADDRESS PRIME CONTRACTOR: 	CONTRACT DESCRIPTION:
---	--------------------------------------

SUBCONTRACTOR NAME:	FEIN#	ADDRESS	ANTICIPATED START DATE	ANTICIPATED COMPLETION

NOTE: PRIME CONTRACTORS SHALL NOT PERMIT ANY SUBCONTRACTOR TO START WORK ON THE PROJECT UNTIL THE SUBCONTRACTOR HAS BEEN APPROVED BY THE ARCHITECT / ENGINEER AND BY THE OWNER.

CERTIFICATION BY PRIME CONTRACTOR: EACH SUBCONTRACTOR LISTED ABOVE HAS ESTABLISHED HIS ABILITY AND RESPONSIBILITY TO PERFORM THE WORK TO WHICH THE SUBCONTRACTOR RELATES. EACH SUBCONTRACTOR HAS BEEN ADVISED OF THE NECESSARY CONTRACT REQUIREMENTS LISTED ON HUD FORM-5369 (*DAVIS BACON WAGE RATES, SECTION 3, ETC*). ALL APPLICABLE PROVISIONS, INCLUDING THOSE CONCERNING LABOR AND EQUAL OPPORTUNITY EMPLOYMENT, INCORPORATED IN MY PRIME CONTRACT FOR THE CONSTRUCTION OF THIS PROJECT WILL BE INCORPORATED IN EACH SUBCONTRACT. THE SUBCONTRACTORS LISTED ABOVE HAVE BEEN CHECKED AGAINST THE *U.S. GENERAL SERVICES ADMINISTRATION (GSA) LIST OF PARTIES EXCLUDED FROM FEDERAL PROCUREMENT AND NONPROCUREMENT PROGRAMS* AND IS NOT LISTED ON SUCH.

CERTIFICATION BY: _____ CONTRACTOR	APPROVED BY: _____ EXECUTIVE DIRECTOR, HIALEAH HOUSING AUTHORITY	DATE: _____
--	--	--------------------



HIALEAH HOUSING AUTHORITY



Section 3 Business Concern Certification for Contracting

Instructions: Enter the following information and select the criteria that applies to certify your business' Section 3 Business Concern status.

Business Information

Name of Business _____

Address of Business _____

Name of Business Owner _____

Phone Number of Business Owner _____

Email Address of Business Owner _____

Preferred Contact Information

Same as above

Name of Preferred Contact _____

Phone Number of Preferred Contact _____

Type of Business (select from the following options):

Corporation

Partnership

Sole Proprietorship

Joint Venture

Select from **ONE** of the following three options below that applies:

At least 51 percent of the business is owned and controlled by low or very low-income persons (Refer to income guidelines on page 3).

At least 51 percent of the business is owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing.

Over 75 percent of the labor hours performed for the business over the prior three-month period are performed by Section 3 workers (Refer to definition on page 3).



HIALEAH HOUSING AUTHORITY



Business Concern Affirmation

I affirm that the above statements (on the frontside of this form) are true, complete, and correct to the best of my knowledge and belief. I understand that businesses who misrepresent themselves as Section 3 business concerns and report false information to the Hialeah Housing Authority (HHA) may have their contracts terminated as default and be barred from ongoing and future considerations for contracting opportunities. I hereby certify, under penalty of law, that the following information is correct to the best of my knowledge.

Print Name: _____

Signature: _____ Date: _____

*Certification expires within six months of the date of signature

Information regarding Section 3 Business Concerns can be found at [24 CFR 75.5](#)

FOR ADMINISTRATIVE USE ONLY

Is the business a Section 3 business concern based upon their certification?

YES NO

EMPLOYERS MUST RETAIN THIS FORM IN THEIR SECTION 3 COMPLIANCE FILE FOR FIVE YEARS.



Section 3 Income Limits

Eligibility Guidelines

The worker’s income must be at or below the amount provided below for an individual (household of 1) regardless of actual household size.

For eligibility, HHA uses the Low Income Limits Amount (80%).

**Individual Income Limits for Miami Dade County
FY 2021**

Income Limits Category	FY 2021 Income Limits
Extremely Low Income Limits (30%)	\$19,000
Very Low Income Limits (50%)	\$31,650
Low Income Limits (80%)	\$50,650

See <https://www.huduser.gov/portal/datasets/il.html> for most recent income limits.

Section 3 Worker Definition:

- A low or very low-income resident (the worker’s income for the previous or annualized calendar year is below the income limit established by HUD); or
- Employed by a Section 3 business concern; or
- A Youth Build participant.

Targeted Section 3 Worker Definition:

- Employed by a Section 3 business concern or
- Currently meets or when hired met at least one of the following categories as documented within the past five years:
 - A resident of public housing; or
 - A resident of other public housing projects or Section 8-assisted housing; or
 - A Youth Build participant.



**EQUAL EMPLOYMENT
OPPORTUNITY
Elevator Preventive Maintenance
Services
BID #24-02-001**

EQUAL EMPLOYMENT OPPORTUNITY REQUIREMENTS

Attention of Bidders is particularly called to the requirements for ensuring that employees and applicants for employment are not discriminated against because of their race, color, religion, sex or national origin.

**NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION TO ENSURE
EQUAL EMPLOYMENT OPPORTUNITY EXECUTIVE ORDER 11246**

1. The Bidder's attention is called to the "Equal Opportunity Clause"

EMPLOYMENT OPPORTUNITIES FOR LOWER INCOME PERSONS

Attention of Bidders is particularly called to the requirements concerning provisions for training, employment and business opportunities, to the maximum extent feasible, for lower income residing in the project area, as defined by the U.S. Housing and Urban Development Agency.

Prior to execution of a contract the accepted Bidder must submit the following;

- a. Good Faith Effort and Compliance Certification
- b. Preliminary Statement of Work Force Needs of skilled, semiskilled, unskilled labor and trainees by category and subcontract requirements.
- c. Affirmative Action Plan for utilization of project area residents and businesses eligible under Section 3 of the U.S. Housing and Urban Development Act of 1968.

During the performance of this contract, the Contractor agrees as follows:

- A. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The Contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regards to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer, recruitment advertising, lay-off or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places available to all employees and applicants for employment notice to be provided setting forth the provisions of this nondiscrimination clause.



**EQUAL EMPLOYMENT
OPPORTUNITY
Elevator Preventive Maintenance
Services
BID #24-02-001**

- B. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor; state that all qualified applicants will receive consideration for employment without regards to race, color, religion, sex or national origin.
- C. The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the Contractor Compliance Officer advising the said labor union or worker's representatives of the Contractor's commitment under this section and shall post copies of the notice in conspicuous place available and applicants for employment. (See notice attached)
- D. The Contractor will comply with all provisions of executive Order 11246 of September 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor.
- E. The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations and orders of the Secretary of Labor, or pursuant, there to and will permit access to his books, records, and accounts by the Department and the Secretary of Labor for purposes of investigation to ascertain compliance with such rule regulations and orders.
- F. In the event of the Contractor non compliance with the nondiscrimination clauses of this contract or with any of the said rules, regulation or orders this contract may be canceled terminated or suspended in whole or in part and the Contractor may be declared ineligible for further Government contractor or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, or by rules, regulations or order of the Secretary of Labor, or as otherwise provided by law.
- G. The Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraph (1) though (7) in every subcontract or purchase order unless exempted by the regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontractor or purchase order as the Department may direct as a means of enforcing such provisions, including sanctions for noncompliance: provided; however, that in the event a contractor becomes involved in, or is threatened with litigation with a subcontractor or vendor as a result of such direction by the Department the Contractor may request the United State to enter into such litigation to protect the interest of the United States.



**EQUAL EMPLOYMENT
OPPORTUNITY
Elevator Preventive Maintenance
Services
BID #24-02-001**

NOTICE TO ALL APPLICANTS AND EMPLOYEES

The undersigned currently holds contract(s) with **HIALEAH HOUSING AUTHORITY** involving funds or credit of the U.S. Government or (a) subcontractor(s) with a prime contractor holding such Contract. You are advised that under the provisions of the above contract(s) or subcontract(s) and in accordance with the Executive Order No.11246, Section 202, dated September 24, 1965, the undersigned is obliged not to discriminate against any employee or applicant for employment because of race, color, creed, or national origin. This obligation not to discriminate in employment includes, but is not limited to, the following:

Hiring, Placement, Upgrading, Transfer Or Demotion, Recruitment, Advertising Or Solicitation For Employment, Training During Employment, Rates Of Pay Or Other Forms Of Compensation, Selection For Training Including Apprenticeship, Layoff Or Termination.

This notice is furnished you pursuant to the provisions of the above contract(s) or subcontract(s) and Executive Order No.11246.

COMPANY NAME _____

ADDRESS _____

PHONE NUMBER _____



**EQUAL EMPLOYMENT
OPPORTUNITY
Elevator Preventive Maintenance
Services
BID #24-02-001**

A large, empty rectangular box with a black border, intended for providing information or a response related to the bid.

PUBLIC ENTITY CRIMES FORM
SWORN STATEMENT UNDER SECTION 287.133(3)(A),
FLORIDA STATUTES, PUBLIC ENTITY CRIMES

THIS FORM MUST BE SIGNED IN THE PRESENCE OF A NOTARY PUBLIC OR OTHER OFFICER AUTHORIZED TO ADMINISTER OATHS.

1. This sworn statement is submitted for _____.
2. This sworn statement is submitted by _____ (Name of entity submitting sworn statement) whose business address is _____ and (if applicable) its Federal Employer Identification Number (FEIN) is _____. If the entity has no FEIN, include the Social Security Number of the individual signing this sworn statement:
_____.
3. My name is _____ and my relationship to the _____ (please print name of individual signing) entity name above is _____.
4. I understand that a "public entity crime" as defined in Paragraph 287.133(1)(g), Florida Statutes, means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or with the United States, including, but not limited to, any bid or contract for goods or services to be provided to any public entity or an agency or political subdivision of any other state or of the United States and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.
5. I understand that "convicted" or "conviction" as defined in Paragraph 287.133(1)(b), Florida Statutes, means a violation of guilt or a conviction of a public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of a jury verdict, nonjury trial, or entry of a plea of guilty or nolo contendere.
6. I understand that an "affiliate" as defined in Paragraph 287.133(1)(a), Florida Statutes, means:
 1. A predecessor or successor of a person convicted of a public entity crime; or
 2. as entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime. The term "affiliate" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate. The ownership by one person of shares constituting a controlling interest in another person, or a pooling of equipment or income among persons when not for fair market value under an arm's length agreement, shall be a prima facie case that one person controls another person. A person who knowingly enters into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months shall be considered an affiliate.
7. I understand that a "person" as defined in Paragraph 287.133(1)(e), Florida Statutes, means any natural person or entity organized under the laws of any state or of the United States with the legal power to enter into a binding contract and which bids or applies to bid on contracts for the provision of goods or services let by a public entity, or which otherwise transacts or applies to transact business with a public entity. The term "person" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in management of an entity.

8. Based on information and belief, the statement which I have marked below is true in relation to the entity submitting this sworn statement. (Please indicate which statement applies.)

_____ Neither the entity submitting this sworn statement, nor any officers, directors, executives, partners, shareholders, employees, members, or agents who are active in management of the entity, nor any affiliate of the entity have been charged with and convicted of a public entity crime subsequent to July 1, 1989.

_____ The entity submitting this sworn statement, or one or more of the officers, directors, executives, partners, shareholders, employees, members, or agents who are active in management of the entity, or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989, AND (Please indicate which additional statement applies.)

_____ The person or affiliate has not been placed on the convicted contractor list. (Please describe any action taken by or pending with the Department of General Services.)

(Signature)
Date: _____

STATE OF _____

COUNTY OF _____

_____ APPEARED IN PERSON BEFORE ME (the undersigned authority), who is personally known to me or provided the following identification _____, and affixed his/her signature in the space provided above on this _____ day of _____, 20____.

NOTARY PUBLIC

My commission expires: _____



**Certification Regarding
Debarment, Suspension, and Other Responsibility Matters
Primary Covered Transactions**

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 13 CFR Part 145. The regulations were published as Part VII of the May 26, 1988 *Federal Register* (pages 19160-19211). Copies of the regulations are available from local offices of the U.S. Small Business Administration.

(BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS ON REVERSE)

- (1) The prospective primary participant certifies to the best of its knowledge and belief that it and its principals:
 - (a) Are not presently debarred, suspended, proposed for disbarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 - (b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or 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 Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - (c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
 - (d) Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default.

- (2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective primary participant shall attach an explanation to this proposal.

Business Name _____

Date _____

By _____

Name and Title of Authorized Representative

Signature of Authorized Representative

INSTRUCTIONS FOR CERTIFICATION

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.

2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

4. The prospective primary participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

5. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is submitted for assistance in obtaining a copy of those regulations (13 CFR Part 145).

6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transactions," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the ineligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

By signing the filled-out form, you:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and
4. Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting*, later, for further information.

Note: If you are a U.S. person and a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

Definition of a U.S. person. For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien;
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States;
- An estate (other than a foreign estate); or
- A domestic trust (as defined in Regulations section 301.7701-7).

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax under section 1446 on any foreign partners' share of effectively connected taxable income from such business. Further, in certain cases where a Form W-9 has not been received, the rules under section 1446 require a partnership to presume that a partner is a foreign person, and pay the section 1446 withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid section 1446 withholding on your share of partnership income.

In the cases below, the following person must give Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States.

- In the case of a disregarded entity with a U.S. owner, the U.S. owner of the disregarded entity and not the entity;
- In the case of a grantor trust with a U.S. grantor or other U.S. owner, generally, the U.S. grantor or other U.S. owner of the grantor trust and not the trust; and
- In the case of a U.S. trust (other than a grantor trust), the U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

Foreign person. If you are a foreign person or the U.S. branch of a foreign bank that has elected to be treated as a U.S. person, do not use Form W-9. Instead, use the appropriate Form W-8 or Form 8233 (see Pub. 515, *Withholding of Tax on Nonresident Aliens and Foreign Entities*).

Nonresident alien who becomes a resident alien. Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the payee has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items.

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

Example. Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity, give the requester the appropriate completed Form W-8 or Form 8233.

Backup Withholding

What is backup withholding? Persons making certain payments to you must under certain conditions withhold and pay to the IRS 24% of such payments. This is called "backup withholding." Payments that may be subject to backup withholding include interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, payments made in settlement of payment card and third party network transactions, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

Payments you receive will be subject to backup withholding if:

1. You do not furnish your TIN to the requester,
2. You do not certify your TIN when required (see the instructions for Part II for details),
3. The IRS tells the requester that you furnished an incorrect TIN,
4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or
5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See *Exempt payee code*, later, and the separate Instructions for the Requester of Form W-9 for more information.

Also see *Special rules for partnerships*, earlier.

What is FATCA Reporting?

The Foreign Account Tax Compliance Act (FATCA) requires a participating foreign financial institution to report all United States account holders that are specified United States persons. Certain payees are exempt from FATCA reporting. See *Exemption from FATCA reporting code*, later, and the Instructions for the Requester of Form W-9 for more information.

Updating Your Information

You must provide updated information to any person to whom you claimed to be an exempt payee if you are no longer an exempt payee and anticipate receiving reportable payments in the future from this person. For example, you may need to provide updated information if you are a C corporation that elects to be an S corporation, or if you no longer are tax exempt. In addition, you must furnish a new Form W-9 if the name or TIN changes for the account; for example, if the grantor of a grantor trust dies.

Penalties

Failure to furnish TIN. If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

Civil penalty for false information with respect to withholding. If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

Criminal penalty for falsifying information. Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

Misuse of TINs. If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

Specific Instructions

Line 1

You must enter one of the following on this line; **do not** leave this line blank. The name should match the name on your tax return.

If this Form W-9 is for a joint account (other than an account maintained by a foreign financial institution (FFI)), list first, and then circle, the name of the person or entity whose number you entered in Part I of Form W-9. If you are providing Form W-9 to an FFI to document a joint account, each holder of the account that is a U.S. person must provide a Form W-9.

a. Individual. Generally, enter the name shown on your tax return. If you have changed your last name without informing the Social Security Administration (SSA) of the name change, enter your first name, the last name as shown on your social security card, and your new last name.

Note: ITIN applicant: Enter your individual name as it was entered on your Form W-7 application, line 1a. This should also be the same as the name you entered on the Form 1040/1040A/1040EZ you filed with your application.

b. Sole proprietor or single-member LLC. Enter your individual name as shown on your 1040/1040A/1040EZ on line 1. You may enter your business, trade, or "doing business as" (DBA) name on line 2.

c. Partnership, LLC that is not a single-member LLC, C corporation, or S corporation. Enter the entity's name as shown on the entity's tax return on line 1 and any business, trade, or DBA name on line 2.

d. Other entities. Enter your name as shown on required U.S. federal tax documents on line 1. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on line 2.

e. Disregarded entity. For U.S. federal tax purposes, an entity that is disregarded as an entity separate from its owner is treated as a "disregarded entity." See Regulations section 301.7701-2(c)(2)(iii). Enter the owner's name on line 1. The name of the entity entered on line 1 should never be a disregarded entity. The name on line 1 should be the name shown on the income tax return on which the income should be reported. For example, if a foreign LLC that is treated as a disregarded entity for U.S. federal tax purposes has a single owner that is a U.S. person, the U.S. owner's name is required to be provided on line 1. If the direct owner of the entity is also a disregarded entity, enter the first owner that is not disregarded for federal tax purposes. Enter the disregarded entity's name on line 2, "Business name/disregarded entity name." If the owner of the disregarded entity is a foreign person, the owner must complete an appropriate Form W-8 instead of a Form W-9. This is the case even if the foreign person has a U.S. TIN.

Line 2

If you have a business name, trade name, DBA name, or disregarded entity name, you may enter it on line 2.

Line 3

Check the appropriate box on line 3 for the U.S. federal tax classification of the person whose name is entered on line 1. Check only one box on line 3.

IF the entity/person on line 1 is a(n) . . .	THEN check the box for . . .
• Corporation	Corporation
• Individual • Sole proprietorship, or • Single-member limited liability company (LLC) owned by an individual and disregarded for U.S. federal tax purposes.	Individual/sole proprietor or single-member LLC
• LLC treated as a partnership for U.S. federal tax purposes, • LLC that has filed Form 8832 or 2553 to be taxed as a corporation, or • LLC that is disregarded as an entity separate from its owner but the owner is another LLC that is not disregarded for U.S. federal tax purposes.	Limited liability company and enter the appropriate tax classification. (P= Partnership; C= C corporation; or S= S corporation)
• Partnership	Partnership
• Trust/estate	Trust/estate

Line 4, Exemptions

If you are exempt from backup withholding and/or FATCA reporting, enter in the appropriate space on line 4 any code(s) that may apply to you.

Exempt payee code.

- Generally, individuals (including sole proprietors) are not exempt from backup withholding.
- Except as provided below, corporations are exempt from backup withholding for certain payments, including interest and dividends.
- Corporations are not exempt from backup withholding for payments made in settlement of payment card or third party network transactions.
- Corporations are not exempt from backup withholding with respect to attorneys' fees or gross proceeds paid to attorneys, and corporations that provide medical or health care services are not exempt with respect to payments reportable on Form 1099-MISC.

The following codes identify payees that are exempt from backup withholding. Enter the appropriate code in the space in line 4.

- 1—An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2)
- 2—The United States or any of its agencies or instrumentalities
- 3—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities
- 4—A foreign government or any of its political subdivisions, agencies, or instrumentalities
- 5—A corporation
- 6—A dealer in securities or commodities required to register in the United States, the District of Columbia, or a U.S. commonwealth or possession
- 7—A futures commission merchant registered with the Commodity Futures Trading Commission
- 8—A real estate investment trust
- 9—An entity registered at all times during the tax year under the Investment Company Act of 1940
- 10—A common trust fund operated by a bank under section 584(a)
- 11—A financial institution
- 12—A middleman known in the investment community as a nominee or custodian
- 13—A trust exempt from tax under section 664 or described in section 4947

The following chart shows types of payments that may be exempt from backup withholding. The chart applies to the exempt payees listed above, 1 through 13.

IF the payment is for . . .	THEN the payment is exempt for . . .
Interest and dividend payments	All exempt payees except for 7
Broker transactions	Exempt payees 1 through 4 and 6 through 11 and all C corporations. S corporations must not enter an exempt payee code because they are exempt only for sales of noncovered securities acquired prior to 2012.
Barter exchange transactions and patronage dividends	Exempt payees 1 through 4
Payments over \$600 required to be reported and direct sales over \$5,000 ¹	Generally, exempt payees 1 through 5 ²
Payments made in settlement of payment card or third party network transactions	Exempt payees 1 through 4

¹ See Form 1099-MISC, Miscellaneous Income, and its instructions.

² However, the following payments made to a corporation and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees, gross proceeds paid to an attorney reportable under section 6045(f), and payments for services paid by a federal executive agency.

Exemption from FATCA reporting code. The following codes identify payees that are exempt from reporting under FATCA. These codes apply to persons submitting this form for accounts maintained outside of the United States by certain foreign financial institutions. Therefore, if you are only submitting this form for an account you hold in the United States, you may leave this field blank. Consult with the person requesting this form if you are uncertain if the financial institution is subject to these requirements. A requester may indicate that a code is not required by providing you with a Form W-9 with "Not Applicable" (or any similar indication) written or printed on the line for a FATCA exemption code.

- A—An organization exempt from tax under section 501(a) or any individual retirement plan as defined in section 7701(a)(37)
- B—The United States or any of its agencies or instrumentalities
- C—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities
- D—A corporation the stock of which is regularly traded on one or more established securities markets, as described in Regulations section 1.1472-1(c)(1)(i)
- E—A corporation that is a member of the same expanded affiliated group as a corporation described in Regulations section 1.1472-1(c)(1)(i)
- F—A dealer in securities, commodities, or derivative financial instruments (including notional principal contracts, futures, forwards, and options) that is registered as such under the laws of the United States or any state
- G—A real estate investment trust
- H—A regulated investment company as defined in section 851 or an entity registered at all times during the tax year under the Investment Company Act of 1940
- I—A common trust fund as defined in section 584(a)
- J—A bank as defined in section 581
- K—A broker
- L—A trust exempt from tax under section 664 or described in section 4947(a)(1)

M—A tax exempt trust under a section 403(b) plan or section 457(g) plan

Note: You may wish to consult with the financial institution requesting this form to determine whether the FATCA code and/or exempt payee code should be completed.

Line 5

Enter your address (number, street, and apartment or suite number). This is where the requester of this Form W-9 will mail your information returns. If this address differs from the one the requester already has on file, write NEW at the top. If a new address is provided, there is still a chance the old address will be used until the payor changes your address in their records.

Line 6

Enter your city, state, and ZIP code.

Part I. Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN.

If you are a single-member LLC that is disregarded as an entity separate from its owner, enter the owner's SSN (or EIN, if the owner has one). Do not enter the disregarded entity's EIN. If the LLC is classified as a corporation or partnership, enter the entity's EIN.

Note: See *What Name and Number To Give the Requester*, later, for further clarification of name and TIN combinations.

How to get a TIN. If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local SSA office or get this form online at www.SSA.gov. You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at www.irs.gov/Businesses and clicking on Employer Identification Number (EIN) under Starting a Business. Go to www.irs.gov/Forms to view, download, or print Form W-7 and/or Form SS-4. Or, you can go to www.irs.gov/OrderForms to place an order and have Form W-7 and/or SS-4 mailed to you within 10 business days.

If you are asked to complete Form W-9 but do not have a TIN, apply for a TIN and write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

Note: Entering "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

Caution: A disregarded U.S. entity that has a foreign owner must use the appropriate Form W-8.

Part II. Certification

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if item 1, 4, or 5 below indicates otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). In the case of a disregarded entity, the person identified on line 1 must sign. Exempt payees, see *Exempt payee code*, earlier.

Signature requirements. Complete the certification as indicated in items 1 through 5 below.

1. Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983. You must give your correct TIN, but you do not have to sign the certification.

2. Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983. You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

3. Real estate transactions. You must sign the certification. You may cross out item 2 of the certification.

4. Other payments. You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments made in settlement of payment card and third party network transactions, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).

5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), ABL accounts (under section 529A), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions. You must give your correct TIN, but you do not have to sign the certification.

What Name and Number To Give the Requester

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account) other than an account maintained by an FFI	The actual owner of the account or, if combined funds, the first individual on the account ¹
3. Two or more U.S. persons (joint account maintained by an FFI)	Each holder of the account
4. Custodial account of a minor (Uniform Gift to Minors Act)	The minor ²
5. a. The usual revocable savings trust (grantor is also trustee) b. So-called trust account that is not a legal or valid trust under state law	The grantor-trustee ¹ The actual owner ¹
6. Sole proprietorship or disregarded entity owned by an individual	The owner ³
7. Grantor trust filing under Optional Form 1099 Filing Method 1 (see Regulations section 1.671-4(b)(2)(i)(A))	The grantor ⁴
For this type of account:	Give name and EIN of:
8. Disregarded entity not owned by an individual	The owner
9. A valid trust, estate, or pension trust	Legal entity ⁴
10. Corporation or LLC electing corporate status on Form 8832 or Form 2553	The corporation
11. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
12. Partnership or multi-member LLC	The partnership
13. A broker or registered nominee	The broker or nominee

For this type of account:	Give name and EIN of:
14. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity
15. Grantor trust filing under the Form 1041 Filing Method or the Optional Form 1099 Filing Method 2 (see Regulations section 1.671-4(b)(2)(i)(B))	The trust

¹ List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

² Circle the minor's name and furnish the minor's SSN.

³ You must show your individual name and you may also enter your business or DBA name on the "Business name/disregarded entity" name line. You may use either your SSN or EIN (if you have one), but the IRS encourages you to use your SSN.

⁴ List first and circle the name of the trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.) Also see *Special rules for partnerships*, earlier.

***Note:** The grantor also must provide a Form W-9 to trustee of trust.

Note: If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

Secure Your Tax Records From Identity Theft

Identity theft occurs when someone uses your personal information such as your name, SSN, or other identifying information, without your permission, to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:

- Protect your SSN,
- Ensure your employer is protecting your SSN, and
- Be careful when choosing a tax preparer.

If your tax records are affected by identity theft and you receive a notice from the IRS, respond right away to the name and phone number printed on the IRS notice or letter.

If your tax records are not currently affected by identity theft but you think you are at risk due to a lost or stolen purse or wallet, questionable credit card activity or credit report, contact the IRS Identity Theft Hotline at 1-800-908-4490 or submit Form 14039.

For more information, see Pub. 5027, Identity Theft Information for Taxpayers.

Victims of identity theft who are experiencing economic harm or a systemic problem, or are seeking help in resolving tax problems that have not been resolved through normal channels, may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 1-877-777-4778 or TTY/TDD 1-800-829-4059.

Protect yourself from suspicious emails or phishing schemes. Phishing is the creation and use of email and websites designed to mimic legitimate business emails and websites. The most common act is sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to scam the user into surrendering private information that will be used for identity theft.

The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

If you receive an unsolicited email claiming to be from the IRS, forward this message to phishing@irs.gov. You may also report misuse of the IRS name, logo, or other IRS property to the Treasury Inspector General for Tax Administration (TIGTA) at 1-800-366-4484. You can forward suspicious emails to the Federal Trade Commission at spam@uce.gov or report them at www.ftc.gov/complaint. You can contact the FTC at www.ftc.gov/idtheft or 877-IDTHEFT (877-438-4338). If you have been the victim of identity theft, see www.IdentityTheft.gov and Pub. 5027.

Visit www.irs.gov/IdentityTheft to learn more about identity theft and how to reduce your risk.

Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons (including federal agencies) who are required to file information returns with the IRS to report interest, dividends, or certain other income paid to you; mortgage interest you paid; the acquisition or abandonment of secured property; the cancellation of debt; or contributions you made to an IRA, Archer MSA, or HSA. The person collecting this form uses the information on the form to file information returns with the IRS, reporting the above information. Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation and to cities, states, the District of Columbia, and U.S. commonwealths and possessions for use in administering their laws. The information also may be disclosed to other countries under a treaty, to federal and state agencies to enforce civil and criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. You must provide your TIN whether or not you are required to file a tax return. Under section 3406, payers must generally withhold a percentage of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to the payer. Certain penalties may also apply for providing false or fraudulent information.



**UNIFORM PHYSICAL CONDITION STANDARDS (“UPCS”) INSPECTION SERVICES
CONTRACT FOR PUBLIC HOUSING, NON-SECTION 8, AFFORDABLE, PALM CENTRE,
AND HODAG**

This Hialeah Housing Authority Elevator Inspection Services Contract Agreement (hereinafter referred to as “Agreement”) is made as of _____ (Agreement “Effective Date”) by and between the Hialeah Housing Authority (hereinafter referred to as “Authority” or “HHA”) and _____

Unless terminated by the Authority in accord with paragraph 9 of this Agreement, the term of this Agreement shall be for a period of one (1) year commencing _____ to end _____. The HHA, at its sole discretion, reserves the right to exercise the option to renew this Contract for a period of four (4) additional years on a year-to-year basis. Whenever the term "herein" is referred to, such refers to this contract form, the appendices and all listed attachments.

1.0 Definitions:

- 1.1 Hialeah Housing Authority (HHA):** Any reference herein or within any Appendix to the “Housing Authority” shall be interpreted to mean the same as the HHA.
- 1.2 Contracting Officer (CO):** The HHA Contracting Officer, typically the HHA Executive Director, but may be another person delegated such authority by the ED.
- 1.3 Executive Director (ED):** The HHA Executive Director.
- 1.4 Request for Proposals (RFP):** A competitive solicitation process conducted by the HHA wherein award was completed to the top-rated responsive and responsible proposer.

2.0 Services and Payment:

- 2.1 Scope of Services:** The services provided pursuant to this contract generally consist of those services for the HHA as described herein and within the Appendices. Said services shall be provided on the dates and times determined by the HHA at the designated HHA community and facilities. In addition, the HHA shall retain the right to implement and/or enforce any item issued as a part of the RFP
- 2.2 Billing Method:**

- 2.5.1** To receive payment for services rendered pursuant to this contract the Contractor shall submit a fully completed invoice for work previously performed to:

**Hialeah Housing Authority
Attn: Accounts Payable
75 East 6th Street
Hialeah, Florida 33010**

2.5.2 At a minimum, the invoice shall detail the following information:

- 2.5.2.1 Unique invoice number;
- 2.5.2.2 Contractor's name, address and telephone number;
- 2.5.2.3 Date of invoice and/or billing period;
- 2.5.2.4 Brief description of services rendered, including applicable time frame, total hours being billed for each service at each detailed site, and at the approved rate (may be submitted in the form of a report);
- 2.5.2.5 Total dollar amount being billed.

3.0 Contractor's Obligations: Pursuant to this contract, the Contractor agrees to provide the specific services detailed herein and also shall be responsible for the following:

3.1 Supervision and Oversight: The Contractor shall be solely responsible for providing supervision and oversight to all of the Contractor's personnel that are assigned to the HHA properties pursuant to this contract.

3.2 Qualified Personnel: The Contractor warrants and represents that it will assign only qualified personnel to perform the services outlined herein and within the appendices. For the purposes of this contract, the term "qualified personnel" shall mean those personnel that have been investigated, tested and trained in the manner described within this contract and, as proposed by the Contractor within its proposal or as provided by the Contractor during the Contractor's normal conduct of business.

3.3 Compliance with Federal and State Laws: All work performed by the Contractor, pursuant to this contract, shall be done in accordance with applicable all Federal, State and local laws, regulations, codes and ordinances.

3.4 Insurance Requirements:

3.4.1 The complete indemnity requirements are detailed within Section 10.16 herein.

3.4.2 In this regard, the Contractor shall maintain the following insurance coverage during the effective term(s) of this contract:

3.4.2.1 Policy of General Liability Insurance, \$1,000,000 per occurrence, \$1,000,000 aggregate together with damage to premises and fire damage of \$50,000 and medical expenses for any one person of \$5,000 with a deductible not greater than \$1,000. The HHA shall be named upon the certificate

issued as an "additional insured," together with providing a copy of the corresponding endorsement evidencing the same.

- 3.4.2.2 Policy of Professional Liability Insurance or Errors & Omissions coverage, minimum of \$1,000,000 each occurrence, general aggregate minimum limit of \$1,000,000 with a deductible of not greater than \$1,000;
- 3.4.2.3 Automobile Liability coverage in a combined single limit of \$1,000,000. For every vehicle utilized during the term of this contract, when not owned by the entity, each vehicle must Have evidence of automobile insurance coverage with limits of no less than \$50,000/\$100,000 and medical pay of \$5,000 with a deductible not greater than \$1,000.
- 3.4.2.4 Worker's compensation coverage evidencing carrier and coverage amount.
- 3.4.2.5 The Contractor shall provide to the HHA with current certificate(s)/endorsement(s) evidencing the insurance coverage referenced above. Failure to maintain the above-reference insurance coverage, including naming the HHA as an additional insured (where appropriate) during the term(s) of this contract shall constitute a material breach thereof.
- 3.4.2.6 Insurance certificate(s)/endorsement(s) shall be delivered to the following person representing the HHA:

**Maria Maury
Purchasing Officer
Hialeah Housing Authority
75 East 6th Street
Hialeah, Florida 33010**

3.5 Licensing: The Contractor shall also provide to the HHA a copy of the required Florida Business License. Failure to maintain this license in a current status during the term(s) of this contract shall constitute a material breach thereof.

3.6 Financial Viability and Regulatory Compliance:

3.6.1 The Contractor warrants and represents that its corporate entity is in good standing with all applicable federal, state and local licensing authorities and that it possesses all requisite licenses to perform the services required by this contract. The Contractor further warrants and represents that it owes no outstanding delinquent federal, state or local taxes or business assessments.

3.6.2 The Contractor agrees to promptly disclose to the HHA any IRS liens or insurance or licensure suspension or revocation that may adversely affect

its capacity to perform the services outlined within this contract. The failure by the Contractor to disclose such issue to the HHA in writing within 5 days of such notification received will constitute a material breach of this contract.

3.6.3 The Contractor further agrees to promptly disclose to the HHA any change of more than 50% of its ownership and/or any declaration of bankruptcy that the Contractor may undergo during the term(s) of this contract. The failure of the Contractor to disclose any change of more than 50% of its ownership and/or its declaration of bankruptcy within 5 days of said actions shall constitute a material breach of this contract.

3.6.4 All disclosures made pursuant to this section of the contract shall be made in writing and submitted to HHA within the time periods required herein.

4.0 Modification: This contract shall not be modified, revised, amended or extended except by written addendum, executed by both parties.

5.0 Severability: The invalidity of any provision of this contract, as determined by a court of competent jurisdiction and/or HUD, shall in no way affect the validity of any other provision herein.

6.0 Applicable Laws:

6.1 **Compliance with Federal and State Laws:** All work performed by the Contractor, pursuant to this contract, shall be done in accordance with applicable all Federal, State and local laws, regulations, codes and ordinances.

6.2 **Jurisdiction of Law:** The laws of the State of Florida shall govern the validity, construction and effect of this contract, unless said laws are superseded by, or in conflict with applicable federal laws and/or federal regulations. This contract will be binding upon the parties, their heirs, beneficiaries, and devisees of the parties hereto. The parties agree that Miami-Dade County, Florida is the appropriate forum for any action relating to this contract. Should any party hereto retain counsel for the purpose of initiating litigation to enforce, prevent the breach of any provision hereof, or for any other judicial remedy, then the prevailing party shall be entitled to be reimbursed by the losing party for all costs and expenses incurred thereby, including, but not limited to, reasonable attorneys fees and costs incurred by such prevailing party. This contract may be signed in counterparts.

7.0 Notices, Invoices and Reports:

7.1 All notices, reports and/or invoices submitted to the HHA by the Contractor pursuant to this contract shall be in writing and delivered to the attention of the following person representing the HHA:

**Yosselin Oliva
Executive Office
Hialeah Housing Authority**

**75 East 6th Street
Hialeah, Florida 33010**

or if appropriate, faxed to: **(305) 887-8738**

7.2 All notices submitted to the Contractor pursuant to this contract shall be in writing and mailed to the attention of:

000/000-0000

or, if appropriate, shall be faxed to: **000/000-0000**.

8.0 Disputed Billings (Charges):

8.1 Procedures: In addition to the procedures detailed within Clause No. 7 of Appendix No. 1, Form HUD-5370-C (10/2006), *General Conditions for Non-Construction Contracts, Section I—(With or without Maintenance Work)*, in the event that the HHA disputes any portion of its billing(s), the HHA shall pay the undisputed portion of such billing and initiate the dispute-resolving procedures, as follows:

8.1.1 The HHA's representative shall, within 10 days after the HHA's receipt of such billing, formally notify the contractor's representative of all particulars pertaining to the dispute, and request that he/she investigate and respond to this issue.

8.1.2 If such dispute cannot be resolved by the contractor's response, within 10 days after such notification is given, the CO and the contractor's representative shall meet to discuss the matter and attempt to arrive at a resolution.

9.0 24 CFR 85.36(i), Procurement: Pursuant to this CFR, as issued by the Office of the Secretary, HUD, the HHA and the Contractor each agree to comply with the following provisions:

9.1 Remedies for Contractor Breach: Pertaining to contract-related issues, it is the responsibility of both the HHA and the contractor to communicate with each in as clear and complete a manner as possible. If at any time during the term of this contract the HHA or the contractor is not satisfied with any issue, it is the responsibility of that party to deliver to the other party communication, in writing, fully detailing the issue and corrective action (please note that the HHA has the right to issue unilateral addendums to this contract, but the contractor does not have the same right). The other party shall, within 10 days, respond in writing to the other party (however, the HHA shall retain the right to, if conditions warrant, require the contractor to respond in a shorter period of time). Further, the HHA

shall, at a minimum, employ the following steps in dealing with the contractor as to any performance issues:

- 9.1.1 If the contractor is in material breach of the contract, the HHA may promptly invoke the termination clause detailed within Section No. 3 of Appendix No. 1, Form HUD-5370-C (10/2006), *General Conditions for Non-Construction Contracts, Section I—(With or without Maintenance Work)*, which is attached hereto, and terminate the contract for cause. Such termination must be delivered to the contractor in writing and shall fully detail all pertinent issues pertaining to the cause of and justification for the termination.
- 9.1.2 Prior to termination, the HHA may choose to warn the contractor, verbally or in writing, of any issue of non-compliant or unsatisfactory performance. Such written warning may include placing the contractor on probation, thereby giving the contractor a certain period of time to correct the deficiencies or potentially suffer termination. The HHA shall maintain in the contract file a written record of any such warning detailing all pertinent information. If the contractor does not agree with such action, the contractor shall have ten 10 days to dispute or protest, in writing, such action; if he/she does not do so within the 10-day period, he/she shall have no recourse but to accept and agree with the HHA's position on the issue. The written protest must detail all pertinent information pertaining to the dispute, including justification detailing the HHA's alleged incorrect action(s).
- 9.1.3 After termination, if the contractor does not agree with the HHA's justification for the termination, the contractor shall have 10 days to dispute, in writing, such action; if he/she does not do so within the 10-day period, he/she shall have no recourse but to accept and agree with the HHA's position on the issue. The written protest must detail all pertinent information pertaining to the dispute, including justification detailing the HHA's alleged incorrect action(s).
- 9.1.4 The response to any protest received shall be conducted in accordance with Section No. 4.0 of the *Instructions to Proposers and Contractors* document.
- 9.2 **Termination for Cause and Convenience:** As detailed within Clause No. 3 of Attachment G-1, Form HUD-5370-C (10/2006), *General Conditions for Non-Construction Contracts, Section I— (Within or without Maintenance Work)*, attached hereto.
- 9.3 **Reporting:** Both parties hereby agree to comply with any reporting requirements that may be detailed herein.
- 9.4 **Patent Rights:** Both parties hereby agree to comply with HUD Bulletin 90-23, which is the (a) Notice of Assistance Regarding Patent and Copyright Infringement.

- 9.5 Copy Rights/Rights in Data:** In addition to the requirements contained within Clause No. 5 of Attachment G-1, *General Conditions for Non-Construction Contracts, Section I—(With or without Maintenance Work)*, the HHA has unlimited rights to any data, including computer software, developed by the contractor in the performance of the contract specifically:
- 9.5.1** Except as provided elsewhere in this clause, the HHA shall have unlimited rights in data first produced in the performance of this contract; form, fit, and function data delivered under this contract; data delivered under this contract (except for restricted computer software) that constitute manuals or instructional and training material for installation, operation, or routine maintenance and repair of items, components, or processes delivered or furnished for use under this contract; and all other data delivered under this contract unless provided otherwise for limited rights data or restricted computer software.
- 9.5.2** The contractor shall have the right to: use, release to others, reproduce, distribute, or publish any data first produced or specifically used by the contractor in the performance of this contract, unless provided otherwise in this clause; protect from unauthorized disclosure and use those data which are limited rights data or restricted computer software to the extent provided in this clause; substantiate use of, add or correct limited rights, restricted rights, or copyright notices and to take other appropriate action in accordance with this clause; and establish claim to copyright subsisting in data first produced in the performance of this contract to the extent provided below.
- 9.5.3** For data first produced in the performance of this contract, the contractor may establish, without prior approval of the CO, claim to copyright subsisting in scientific or technical articles based on or containing data first produced in the performance of this contract. The contractor grants the HHA and others acting on its behalf a paid-up, non-exclusive, irrevocable, worldwide license in such copyrighted data to reproduce, prepare derivative works, distribute copies to the public, and perform or display publicly by or on behalf of the HHA.
- 9.5.4** The contractor shall not, without the prior written permission of the contracting Officer, incorporate in data delivered under this contract any data not first produced in the performance of this contract and which contains copyright notice, unless the contractor identifies such data and grants the HHA a license of the same scope as identified in the preceding paragraph.
- 9.5.5** The HHA agrees not to remove any copyright notices placed on data and to include such notices in all reproductions of the data. If any data delivered under this contract are improperly marked, the HHA may either return the data to the contractor, or cancel or ignore the markings.

- 9.5.6 The contractor is responsible for obtaining from its subcontractors all data and rights necessary to fulfill the contractor's obligations under this contract.
- 9.5.7 Notwithstanding any provisions to the contrary contained in the contractor's standard commercial license or lease contract pertaining to any restricted computer software delivered under this contract, and irrespective of whether any such contract has been proposed prior to the award of this contract or of the fact that such contract may be affixed to or accompany the restricted computer software upon delivery, the contractor agrees the HHA shall have the rights set forth below to use, duplicate, or disclose any restricted computer software delivered under this contract. The terms and conditions of this contract, including any commercial lease or licensing contract, shall be subject to the following procedures.
- 9.5.8 The restricted computer software delivered under this contract may not be used, reproduced, or disclosed by the HHA except as provided below or as expressly stated otherwise in this contract. The restricted computer software may be: used or copied for use in or with the computer(s) for which it was acquired, including use at any HHA location to which such computer(s) may be transferred; used or copied for use in or with backup computer if any computer for which it was acquired is inoperative; reproduced for safekeeping (archives) or backup purposes; modified, adapted, or combined with other computer software, provided that the modified, combined, or adapted portions of the derivative software incorporating any of the delivered, restricted computer software shall be subject to the same restrictions set forth in this contract; and used or copies for use in or transferred to a replacement computer.
- 9.6 Access to Records:** Both parties hereby guarantee access by the grantee, the subgrantee, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions.
- 9.7 Record Retention:** Both parties hereby guarantee retention of all required records for three records after grantees or subgrantees make final payments and all other pending matters are closed.
- 9.8 Clean Air Act:** For all contracts in excess of \$100,000, both parties hereby agree to comply with all applicable standards, orders or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15).
- 9.9 Energy Policy and Conservation Act:** Both parties hereby agree to comply with all mandatory standards and policies relating to energy efficiency, which are

contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).

10.0 Additional Considerations:

10.1 Non-Escalation: Unless otherwise specified within the RFP documents, the unit prices reflected on the contract shall remain firm with no provision for price increases during the term of the contract.

10.2 Funding Restrictions and Order Quantities: The HHA reserves the right to reduce or increase estimated or actual quantities in whatever amount necessary without prejudice or liability to the HHA, if:

10.2.1 funding is not available;

10.2.2 legal restrictions are placed upon the expenditure of monies for this category of service or supplies; or,

10.2.3 the HHA's requirements in good faith change after award of the contract.

10.2 Unless otherwise stated in the RFP documents, all local, State or Federal permits which may be required to provide the services ensuing from award of this RFP, whether or not they are known to either the HHA or the proposers at the time of the proposal submittal deadline or the award, shall be the sole responsibility of the Contractor and any costs that were submitted by the Contractor in response to the RFP shall reflect all costs required by the Contractor to procure and provide such necessary permits.

10.3 Taxes: All persons doing business with the HHA are hereby made aware that the HHA is exempt from paying Florida State Sales and Use Taxes and Federal Excise Taxes. A letter of Tax Exemption will be provided upon request.

10.4 Freight on Bill and Delivery: All costs submitted by the proposer shall reflect the cost of delivering the proposed items and/or services to the location(s) specified within the RFP documents or within the contract.

10.4.1 The Contractor agrees to deliver to the designated location(s) on or before the date as specified in the finalized contract. Failure to deliver on or before the specified date constitutes an event of default by the Contractor. Upon default, the Contractor agrees that the HHA may, at its option, rescind the finalized contract under the default clause herein and seek compensatory damages as provided by law.

10.5 Backorders:

10.5.1 The CO must be notified in writing by the contractor within 10 days of any and all backordered materials and/or any incomplete services; and the estimated delivery date.

- 10.5.2 Unless otherwise stipulated in the contract, any order that will take more than a maximum of 10 days past the original agreed upon delivery date, may at the option of the HHA, be canceled and ordered from another source, if, in the opinion of the CO, it is in the best interests of the HHA to do so.
- 10.6 Work on HHA Property:** If the Contractor's work under the contract involves operations by the Contractor on HHA premises, the Contractor shall take all necessary precautions to prevent the occurrence of any injury to persons or property during the progress of such work and, except to the extent that any such injury is caused solely and directly by the HHA's negligence, shall indemnify the HHA, and their officers, agents, servants and employees against all loss which may result in any way from any act or omission of the Contractor, its agents, employees, or subcontractors.
- 10.7 Official, Agent and Employees of the HHA not Personally Liable:** It is agreed by and between the parties hereto that in no event shall any official, officer, employee, or agent of the HHA in any way be personally liable or responsible for any covenant or agreement herein contained whether expressed or implied, nor for any statement, representation or warranty made herein or in any connection with this agreement.
- 10.8 Subcontractors:** Unless otherwise stated within the RFP documents, the Contractor may not use any subcontractors to accomplish any portion of the services described within the RFP documents or the contract without the prior written permission of the CO.
- 10.9 Salaries and Expenses Relating to the Contractors Employees:** Unless otherwise stated within the RFP documents, the Contractor shall pay all salaries and expenses of, and all Federal, Social Security taxes, Federal and State Unemployment taxes, and any similar taxes relating to its employees used in the performance of the contract. The Contractor further agrees to comply with all Federal, State and local wage and hour laws and all licensing laws applicable to its employees or other personnel furnished under this agreement.
- 10.10 Attorney's Fees:** In the event that litigation is commenced by one party hereto against the other in connection with the enforcement of any provision of this agreement, the prevailing party shall be paid by the losing party all court costs and other expenses of such litigation, including reasonable attorneys' fees. The amount so allowed as attorneys' fees shall be taxed to the losing party as costs of the suit, unless prohibited by law.
- 10.11 Independent Contractor:** Unless otherwise stated within the RFP documents or the contract, the Contractor is an independent contractor. Nothing herein shall create any association, agency, partnership or joint venture between the parties hereto and neither shall have any authority to bind the other in any way.
- 10.12 Severability:** If any provision of this agreement or any portion or provision hereof applicable to any particular situation or circumstance is held valid, the remainder of this agreement or the remainder of such provision (as the case may be), and the

application thereof to other situations or circumstances shall not be affected thereby.

10.13 Waiver of Breach: A waiver of either party of any terms or condition of this agreement in any instance shall not be deemed or construed as a waiver of such term or condition for the future, or of any subsequent breach thereof. All remedies, rights, undertakings, obligations, and agreements contained in this agreement shall be cumulative and none of them shall be in limitation of any other remedy, right, obligation or agreement of either party.

10.14 Time of the Essence: Time is of the essence under this agreement as to each provision in which time of performance is a factor.

10.15 Limitation of Liability: In no event shall the HHA be liable to the Contractor for any indirect, incidental, consequential or exemplary damages.

10.16 Indemnification:

10.16.1 The Contractor shall indemnify, defend, and hold the HHA (and its officers, employees, and agents) harmless from and against any and all claims, damages, losses, suits, actions, decrees, judgments, attorney's fees, court costs and other expenses of any kind or character, which are caused by, arise out of, or occur due to any failure of the Contractor to (1) abide by any of the applicable professional standards within its industry, or (2) comply with the terms, conditions, or covenants that are contained in this contract, or (3) ensure that the any subcontractors abide by the terms of this provision and this contract; provided, however, that Contractor will not be required to indemnify the HHA against any loss or damage which was specifically caused by the HHA providing inaccurate information to the Contractor, failing to provide necessary and requested information to the Contractor, or refusal to abide by any recommendation of the Contractor.

10.16.2 In this connection, it is expressly agreed that the Contractor shall, at its own expense, defend the HHA, its officers, employees, and agents, against any and all claims, suits or actions which may be brought against them, or any of them, as a result of, or by reason of, or arising out of, or on account of, or in consequence of any act or failure to act the consequences of which the Contractor has indemnified the HHA. If the Contractor shall fail to do so, the HHA shall have the right, but not the obligation, to defend the same and to charge all direct and incidental costs of such defense to the Contractor including attorney's fees and court costs.

10.16.3 Any money due to the Contractor under and by virtue of this contract, which the HHA believes must be withheld from the Contractor to protect the HHA, may be retained by the HHA so long as it is reasonably necessary to ensure the HHA's protection; or in case no money is due, its surety may be held until all applicable claims have been settled and suitable evidence to that effect furnished to the HHA provided, however, neither the Corporation's payments shall not be withheld, and its surety shall be released, if the

Contractor is able to demonstrate that it has adequate liability and property damage insurance to protect the HHA from any potential claims.

10.16.4 The Contractor shall provide that any contractual arrangement with a subcontractor shall be in conformance with the terms of this Contract including the terms of this indemnity provision. The Contractor guarantees that it will promptly handle and rectify any and all claims for materials, supplies and labor, or any other claims that may be made against it or any of its subcontractors in connection with the contract.

10.17 Lobbying Certification: By execution of this contract with the HHA the Contractor thereby certifies, to the best of his or her knowledge and belief, that:

10.17.1 No Federal appropriated funds Have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal loan, the entering into of any cooperative agreement, or modification of any Federal contract, grant, loan, or cooperative agreement.

10.17.2 If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the Contractor shall complete and submit Standard Form- LLL, Disclosure Form to Report Lobbying, in an accordance with its instructions.

10.17.3 The Contractor shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

10.18 Additional Federally Required Orders/Directives: Both parties agree that they will comply with the following laws and directives, where applicable:

10.18.1 Executive Order 11061, as amended, which directs the Secretary of HUD to take all action which is necessary and appropriate to prevent discrimination by agencies that utilize federal funds.

10.18.2 Public Law 88-352, Title VI of the Civil Rights Act of 1964, which provides that no person in the United States shall, on the basis of race, color, national origin or sex, be excluded from participation in, denied the benefits of, or subjected to discrimination under any program or activity which receives federal financial assistance. The HHA hereby extends this requirement to the Contractor and its private contractors.

Specific prohibited discriminatory actions and corrective action are described in Chapter 2, Subtitle C, Title V of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 19901 et. seq.).

- 10.18.3 Public Law 90-284, Title VIII of the Civil Rights Act of 1968., popularly known as the Fair Housing Act, which provides for fair housing throughout the United States and prohibits any person from discriminating in the sale or rental of housing, the financing of housing or the provision of brokerage services, including in any way making unavailable or denying a dwelling to any person because of race, color, religion, sex or national origin. Pursuant to this statute, the HHA requires that the Contractor administer all programs and activities, which are related to housing and community development in such a manner as affirmatively to further fair housing.
- 10.18.4 The Age Discrimination Act of 1975, which prohibits discrimination on the basis of age.
- 10.18.5 Anti-Drug Abuse Act of 1988 (42 U.S.C. 11901 et. seq.).
- 10.18.6 HUD Information Bulletin 909-23 which is the following:
 - 10.18.6.1 Notice of Assistance Regarding Patent and Copyright Infringement;
 - 10.18.6.2 Clean Air and Water Certification; and,
 - 10.18.6.3 Energy Policy and Conversation Act.
- 10.18.7 That the funds that are provided by the HHA and HUD hereunder shall not be used, directly or indirectly, to employ, award a contract to, or otherwise engage the services of any debarred, suspended or ineligible Contractor.
- 10.18.8 That none of the personnel who are employed in the administration of the work required by this contract shall, in any way or to any extent, be engaged in the conduct of political activities in violation of Title V, Chapter 15, of the United States Code.
- 10.18.9 The mention herein of any statute or Executive Order is not intended as an indication that such statute or Executive Order is necessarily applicable nor is the failure to mention any statute or Executive Order intended as an indication that such statute or Executive Order is not applicable. Therefore, each provision of law and each clause, which is required by law to be inserted in this agreement, shall be deemed to have been inserted herein, and this agreement shall be read and enforced as though such provision or clause had been physically inserted herein. If, through mistake or otherwise, any such provision is not inserted or is inserted incorrectly, this agreement shall forthwith be

physically amended to make such insertion or correction upon the application of either part.

11.0 Section 3 Clause: As detailed within 24 CFR 135.38, *Section 3 clause*, the following required clauses are hereby included as a part of this contract.

- 11.1** The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- 11.2** The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.
- 11.3** The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- 11.4** The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.
- 11.5** The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.
- 11.6** Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

11.7 With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

12.0 Appendices:

12.1 The following noted documents are placed under each of the noted appendix and are a part of this contract:

12.1.1 **Appendix No. 1:** form HUD-5370-C (01/2014), *General Condition for Non-Construction Contracts, Section I— (With or without Maintenance Work)*,

12.1.2 **Appendix No. 2:** Specific documentation pertaining to Section 3 that pertains to this contract.

12.1.3 **Appendix No. 3:** Scope of Services, as agreed upon by negotiation between the HHA and the contractor;

12.1.4 **Appendix No. 4:** The proposed fee(s) submitted by this contractor in response to the RFP, or any negotiated fee(s) that resulted thereto, which fee(s) shall apply to each procurement that ensues from this contract;

12.1.5 Included by reference is any document or clause issued as a part of the RFP that the HHA may choose to include at any time during the performance of this contract or any options exercised thereto by the HHA. Further, any document that may be referenced herein that has not been listed above is hereby incorporated herein by reference, and a copy of each such document is available from the HHA upon written request for such from the contractor.

12.2 In the case of any discrepancy between this contract and any of the above noted appendices, the requirement(s) detailed within the body of this contract shall take first precedence, then the requirement(s) detailed within each appendix shall take precedence in the order that they are listed above (meaning, the requirement(s) detailed within the lower listed item may not overrule any requirement(s) detailed within a higher listed item).

13.0 CERTIFICATIONS: The undersigned representative of each party hereby acknowledges by signature below that they have reviewed the foregoing and understand and agree to abide by their respective obligations as defined herein:

[The Contractor]:

By: _____ Date: _____
[Name], [Title]

HIALEAH HOUSING AUTHORITY

By: _____ Date: _____
Julio Ponce, Executive Director

Appendix No. 1

Appendix No. 2

Appendix No.3

Appendix No. 4



Elevator Building ID List

Building Name	Building Address	Serial #	DC#	# of Stops	Type
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Administration Building

Administration	75 East 6 St	73219		3	HYD
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Public Housing

Ashley Plaza	70 East 7th St.	67453	3751	7	HYD
		67454	3752		
Holland Hall	555 East 1 Ave	67786	4256	4	HYD
		67787	4257		
Vivian Villas	4650 West 12 Ave	67451	3749	4	HYD
		67452	3750		
Milander	815 West 75 St	67313	3555	5	HYD
		67314	3556		
La Esperanza	1770 West 44 Pl	68544	5776	4	HYD
		68545	5777		
Ruth Tinsman	6545 West 24 Ave	70962	8601	4	HYD
		70963	8602		

Patterson

Patterson	1875 West 75 St	67339	3582	3	HYD
		67340	3583		

Plam Centre

Palm Centre 1	150 East 1 Ave	69878	7422	13	TRC
		69879	7423		
		69880	7424		
Palm Centre 2	60 East 3 St	69375	6879	9	TRC
		69374	6878		
Commercial Suite	240 East 1 Ave	69384	6889	2	HYD

Affordable Housing

1650 Building	1650 West 56 St	67278	3510	3	HYD
1655 Buidng	1655 West 56 ST	67279	3511	3	HYD
1675 Building	1675 West 56 St	67280	3512	3	HYD
1680 Building	1680 West 56 St	67281	3513	3	HYD
6830 Building	6830 West 7 Ave	67716	4153	3	HYD
6870 Building	6870 West 7 Ave	67715	4154	3	HYD



Elevator Building ID List

Building Name	Building Address	Serial #	DC#	# of Stops	Type
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Administration Building

Administration	75 East 6 St	73219	11426	3	HYD
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Public Housing

Ashley Plaza	70 East 7th St.	67453	3751	7	TRC
		67454	3752		
Holland Hall	555 East 1 Ave	67786	4256	9	TRC
		67787	4257		
Vivian Villas	4650 West 12 Ave	67451	3749	4	HYD
		67452	3750		
Milander	815 West 75 St	67313	3555	5	HYD
		67314	3556		
La Esperanza	1770 West 44 Pl	68544	5776	4	HYD
		68545	5777		
Ruth Tinsman	6545 West 24 Ave	70962	8601	4	HYD
		70963	8602		

Patterson

Patterson	1875 West 75 St	67339	3582	3	HYD
		67340	3583		

Plam Centre

Palm Centre 1	150 East 1 Ave	69878	7422	13	TRC
		69879	7423		
		69880	7424		
Palm Centre 2	60 East 3 St	69375	6879	13	TRC
		69374	6878		
Commercial Suite	240 East 1 Ave	69384	6889	2	HYD

Affordable Housing

1650 Building	1650 West 56 St	67278	3510	3	HYD
1655 Buiding	1655 West 56 ST	67279	3511	3	HYD
1675 Building	1675 West 56 St	67280	3512	3	HYD
1680 Building	1680 West 56 St	67281	3513	3	HYD
6830 Building	6830 West 7 Ave	67716	4153	3	HYD
6870 Building	6870 West 7 Ave	67715	4154	3	HYD

Villa Mariposa

Villa Mariposa	2345 W 5th Avenue	79002	15140	4	Electric
		79003	15141		



Elevator Building ID List

Building Name	Building Address	Serial #	DC#	# of Stops	Type	Quote
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Administration Building

Administration	75 East 6 St	73219	11426	3	HYD	
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Public Housing

Ashley Plaza	70 East 7th St.	67453 67454	3751 3752	7	TRC	
Holland Hall	555 East 1 Ave	67786 67787	4256 4257	9	TRC	
Vivian Villas	4650 West 12 Ave	67451 67452	3749 3750	4	HYD	
Milander	815 West 75 St	67313 67314	3555 3556	5	HYD	
La Esperanza	1770 West 44 Pl	68544 68545	5776 5777	4	HYD	
Ruth Tinsman	6545 West 24 Ave	70962 70963	8601 8602	4	HYD	

Patterson

Patterson	1875 West 75 St	67339 67340	3582 3583	3	HYD	
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Palm Centre

Palm Centre 1	150 East 1 Ave	69878 69879 69880	7422 7423 7424	13	TRC	
Palm Centre 2	60 East 3 St	69375 69374	6879 6878	13	TRC	
Commercial Suite	240 East 1 Ave	69384	6889	2	HYD	

Affordable Housing

1650 Building	1650 West 56 St	67278	3510	3	HYD	
1655 Buidling	1655 West 56 ST	67279	3511	3	HYD	
1675 Building	1675 West 56 St	67280	3512	3	HYD	
1680 Building	1680 West 56 St	67281	3513	3	HYD	
6830 Building	6830 West 7 Ave	67716	4153	3	HYD	
6870 Building	6870 West 7 Ave	67715	4154	3	HYD	

Villa Mariposa

Villa Mariposa	2345 W 5th Avenue	79002 79003	15140 15141	4	Electric	
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Position	Regular Rate	Overtime Rate
Mechanic	\$_____.____	\$_____.____
Helper	\$_____.____	\$_____.____
Adjuster	\$_____.____	\$_____.____
Team(Mech.&- Helper)	\$_____.____	\$_____.____



SECTION 3 OVERVIEW

FOR RECIPIENTS OF HUD HOUSING & COMMUNITY DEVELOPMENT FUNDING

Why HUD Enforces Section 3?

Each year the U.S. Department of Housing and Urban Development invests billions of federal dollars into distressed communities for projects that build and rehabilitate housing; improve roads and community centers; and help families achieve the American Dream.

The Section 3 regulation acknowledges that HUD funding typically results in projects/activities that generate new contracting, employment, and other economic opportunities that not only impact bricks and mortar, but also create a multiplier effect for local housing providers and businesses that provide goods and services.

Section 3 of the Housing and Urban Development Act of 1968 [12 U.S.C. 1701u and 24 CFR Part 135] represents HUD's policy for providing preference for new employment, training, and contracting opportunities created from the usage of covered HUD funds to low- and very low-income residents of the community where certain funds are spent (regardless of race or gender), and the businesses that substantially employ these persons.

Applicability of Section 3 to Housing and Community Development Assistance

The requirements of Section 3 apply to recipients of HUD Housing and Community Development funding exceeding **\$200,000**.

Section 3 does not apply on a "per-project" basis, whenever any portion of HUD funding is invested into projects involving **housing construction, demolition, rehabilitation, or other public construction (i.e., roads, sewers, community centers, etc.)**, the requirements of Section 3 apply.

Further, contractors or subcontractors that receive contracts in excess of **\$100,000** for Section 3 covered projects/activities are required to comply with the Section 3 regulations in the same manner as direct recipients.

If the recipient agency receives Section 3 covered projects/activities, but no individual contract exceeds \$100,000, the requirements of Section 3 only apply to the recipient. Accordingly, the recipient must attempt to meet the Section 3 minimum numerical goals found at 24 CFR Part 135.30 by awarding 10 percent of the total dollar amount of all covered construction contracts to Section 3 businesses.

State and County agencies that distribute covered funds to units of local government, nonprofit organizations, or other subrecipients, must attempt to reach the minimum numerical goals set forth at 24 CFR Part 135.30, regardless of the number of subrecipients that receive covered funding. The state or county must inform its subrecipients about the requirements of Section 3; assist them and their contractors with achieving compliance; and monitor their performance with respect to the objectives and requirements of Section 3.

Some Types of Section 3 Covered Housing and Community Development Funding

- Community Development Block Grants (CDBG)
- Home Investment Partnership Assistance
- Housing Opportunities for Persons with Aids (HOPWA)
- Economic Development Initiative (EDI)
- Brownfield Economic Development Initiative (BEDI)
- Emergency Shelter Grants
- Homeless Assistance
- University Partnership Grants
- Neighborhood Stimulus Program (NSP)
- Certain Grants Awarded Under HUD Notices of Funding Availability (NOFAs)
- Section 202 Supportive Housing for the Elderly
- Section 811 Supportive Housing for the Disabled
- Project Based Section 8 Vouchers

*NOTE: The requirements of Section 3 only apply to the portion(s) of covered funding that were used for project/activities involving housing construction, rehabilitation, demolition, or other public construction.

Section 3 applies to the **entire** covered project or activity regardless of whether the activity was fully or partially funded with covered assistance.

Section 3 Covered Recipient Agencies

“Recipient” refers to any entity that receives Section 3 covered financial assistance directly from HUD or from another recipient and includes, but is not limited to any of the following:

- States; Units of Local Government; Native American Tribes; or other Public Bodies
- Public or Private Nonprofit Organizations
- Private Agencies or Institutions
- Mortgagors; Developers; Limited Dividend Sponsors; Builders; Property Owners; Community Housing Development Organizations
- Successors, assignees or transferees of any such entity listed above
- Recipients do **NOT** include any ultimate beneficiary under the HUD program that Section 3 applies (i.e., residents or laborers); and does **NOT** refer to contractors.

What Triggers the Requirements of Section 3?

Each recipient of \$200,000 of covered HUD funding is required to comply with Section 3. Section 3 applies to all projects and activities involving housing construction, rehabilitation, or other public construction that is funded with covered HUD funding.

Section 3 is triggered when the normal completion of construction and rehabilitation projects creates the need for **new** employment, contracting, or training opportunities.

The Section 3 regulations should not be construed to mean that recipients are required to hire Section 3 residents or award contracts to Section 3 businesses other than what is needed to complete covered projects/activities.

If the expenditure of covered funding does not result in new employment, contracting, or training opportunities, the requirements have not been triggered.

Recipient Responsibilities Pursuant to Section 3

Each recipient (and their covered contractors, subcontractors, or subrecipients) are required to comply with the requirements of Section 3 for **new** employment, training, or contracting opportunities resulting from the expenditure of covered funding. This responsibility includes:

1. Implementing procedures to notify Section 3 residents and business concerns about training, employment, and contracting opportunities generated by Section 3 covered assistance;
2. Notifying potential contractors working on Section 3 covered projects of their responsibilities;
3. Incorporating the Section 3 Clause into all covered solicitations and contracts [see 24 CFR Part 135.38];
4. Facilitating the training and employment of Section 3 residents and the award of contracts to Section 3 business concerns;
5. Assisting and actively cooperating with the Department in making contractors and subcontractors comply;
6. Refraining from entering into contracts with contractors that are in violation of Section 3 regulations;
7. Documenting actions taken to comply with Section 3; and
8. Submitting Section 3 Annual Summary Reports (form HUD-60002) in accordance with 24 CFR Part 135.90.

Section 3 Residents and Business Concerns

Section 3 Residents Are:

1. Residents of Public and Indian Housing; or
2. Individuals that reside in the metropolitan area or nonmetropolitan county in which the Section 3 covered assistance is expended and whose income do not exceed the local income criteria of low- or very low-income.

Section 3 Business Concerns Are One of the Following:

1. Businesses that are 51 percent or more owned by Section 3 residents;
2. Businesses whose permanent, full-time employees include persons, at least 30 percent of whom are currently Section 3 residents, or within three years of the date of first employment with the firm were Section 3 residents; or
3. Businesses that provide evidence of a commitment to subcontract in excess of 25 percent of the dollar amount of all subcontracts to be awarded to businesses that meet the qualifications described above.

In accordance with the regulation, residents and businesses concerns seeking Section 3 preference shall certify, or submit evidence to the recipient, contractor, subcontractor or subrecipient (if requested) verifying that they meet the definitions provided above.

Recipients can use their discretion for determining the type of verification that is required by prospective Section 3 residents and business concerns. Some examples include: proof of residency in a public housing authority; proof of federal subsidies for housing, food stamps, or unemployment benefits; and payroll data or other relevant business information.

Section 3 Summary Reports (Form HUD-60002)

Annually, each direct recipient of Housing and Community Development funding is required to submit form HUD-60002 to HUD's Economic Opportunity Division in Washington, DC.

Where the program providing Section 3 covered funding requires the submission of an annual performance report (e.g., CAPERs reports, etc.), form HUD-60002 shall be submitted at the time that the annual report is due.

The Section 3 Summary Report shall follow the same program, fiscal, or calendar year as the annual performance report and should correspond to the covered projects and activities that were administered during the reporting period.

If the recipient is not required to submit an annual performance report, the Section 3 report is due when other reports are submitted to HUD or at the end of each program, fiscal, or calendar year.

NOTE: Section 3 reports must be submitted by all agencies that receive Housing and Community Development funding in excess of \$200,000 whether new employment, training, or contracting opportunities were created or not.

Determining What Should Be Reported on Form HUD-60002

Section 3 Annual Summary Reports are intended to measure each recipient's efforts to comply with the statutory and regulatory requirements of Section 3 in its own operations **AND** those of covered contractors, subcontractors, and subrecipients. Each submission of form HUD-60002 should indicate the following:

- The total dollar amount of HUD funding that was [spent] by the recipient for covered projects/activities during the specified reporting period.
- The total number of new employees that were hired by the recipient (or its covered contractors, subcontractors, and subrecipients) as a result of the completion of covered project/activities.
- The amount of new employees that were hired by the recipient (or its covered contractors, subcontractors, and subrecipients), as a result of the completion of covered projects/activities, that met the definition of a Section 3 resident.
- The total number of man hours worked on covered projects (optional).
- The aggregate number of hours worked by Section 3 residents on covered projects (optional).

- The total number of Section 3 residents that participated in training opportunities that were made available by the PHA, its contractors, subrecipients, or other local community resource agencies.
- The total dollar amount of construction and/or non-construction contracts (or subcontracts) that were awarded with covered funding.
- The dollar amount of the recipient's construction or non-construction contracts (or subcontracts) that were awarded to Section 3 business concerns.
- Detailed narrative descriptions of the specific actions that were taken by the recipient (or its covered contractors, subcontractors, subrecipients, or others) to comply with the requirements of Section 3 and/or meet the minimum numerical goals for employment and contracting opportunities.

Form HUD-60002 and Section 3 Compliance Determinations

Absent evidence to the contrary, the Department considers recipients of covered funding to be in compliance with Section 3 if they meet the minimum numerical goals set forth at 24 CFR Part 135.30ⁱ. Specifically:

- a. 30 percent of the aggregate number of new hires shall be Section 3 residents;
- b. 10 percent of the total dollar amount of all covered construction contracts shall be awarded to Section 3 business concerns; and
- c. 3 percent of the total dollar amount of all covered non-construction contracts shall be awarded to Section 3 business concerns.

Recipients that fail to meet the minimum numerical goals above bear the burden of demonstrating why it was not possible to do so. Such justifications should describe the efforts that were taken, barriers encountered, and other relevant information that will enable the Department to make a compliance determination.

Recipients that submit Section 3 reports containing **all zeros**, without a sufficient explanation to justify their submission, are in **noncompliance** with the requirements of Section 3.

Failure to comply with the requirements of Section 3 may result in sanctions, including: debarment, suspension, or limited denial of participation in HUD programs pursuant to 24 CFR Part 24.

Recipients that are subject to annual A-133 Audits may also receive an audit finding for failure to submit form HUD-60002 to HUD.

Important Notes for Submitting Form HUD-60002

- Recipients must submit a separate form HUD-60002 for each type of covered funding (*e.g.*, separate reports must be submitted for CDBG and HOME funding).
- Use the online Section 3 Summary Reporting System at: www.hud.gov/section3 to ensure that form HUD- 60002 is received by the appropriate HUD office in a timely manner.
- If the recipient (or its covered contractors, subcontractors and subrecipients) did not hire any new employees during the reporting period, and/or if no covered construction or non-construction contracts were awarded, the recipient must indicate this in Part III of form HUD-60002 and certify that this information is true and accurate by penalty of law.

Additional Section 3 Guidance and Technical Assistance

The Economic Opportunity Division is committed to providing recipient's guidance and technical assistance for compliance with the requirements of Section 3.

For additional information, please visit the Section 3 website at: www.hud.gov/section3. This webpage provides the following tools and information:

- Section 3 Statute—12 U.S.C. 1701u
- Section 3 Regulation—24 CFR Part 135
- Frequently Asked Questions
- Section 3 Model Programs
- Guidance on Section 3 and Economic Stimulus Funding
- Guidance on Section 3 and the Neighborhood Stimulus Program (NSP)
- Sample Section 3 Certification Forms (residents and business concerns)
- Link to HUD's Local Income Eligibility Calculator
- Link to Section 3 Annual Reporting System(form HUD-60002)
- Downloadable Forms
- Contact Information for Economic Opportunity Division staff
- Email inquiries on Section 3 can be sent to section3@hud.gov

¹ See Safe Harbor language at 24 CFR Part 135.30(d)



SECTION 3 BUSINESS FORM

Company Name:	Employer (IRS) No:
Address:	Type of Business: <input type="checkbox"/> Minority – Owned Business <input type="checkbox"/> Women – Owned Business

THE CONTRACTOR REPRESENTS AND CERTIFIES AS PART OF ITS OFFER THAT IT:

IS A SECTION 3 BUSINESS CONCERN (ATTACHED FOR CERTIFICATION)

51% or more owned by Section 3 residents
 30% of your permanent, full time workforce composed of current Section 3 residents
 30% of your permanent, full time workforce employees who, within 3 years employment with your business were Section 3 residents

IS NOT A SECTION 3 BUSINESS CONCERN BUT WHO HAS AND WILL CONTINUE TO SEEK COMPLIANCE WITH SECTION 3 BY CERTIFYING THE ATTACHED FORM, STATING EFFORTS TO AWARD SUBCONTRACTORS TO SECTION 3 CONCERNS.

BACKGROUND:
 Section 3 of the Housing and Community Development Act of 1968, as amended, requires that when employment or contract opportunities are generated because a project or activity undertaken by recipient of HUD financial assistance necessitated the employment of additional personnel through individual hiring or the awarding of contracts for work, the recipient must give preference in hiring low and very low-income persons. Section 3 requires that recipients not only include low and very low persons in their recruitment and solicitation efforts, but that in fact, extra or great efforts be undertaken to make these persons aware of the existence of economic opportunities, encourage their application for these opportunities, and facilitate the employment of, or award of contracts to these persons.

- Section 3 covered assistance means:
- Public and Indian Housing Operating Assistance
 - Public and Indian Housing Modernization Assistance;
 - Assistance provided under any HUD Housing or Community Development program that is expended for work arising in connection with Housing rehabilitation, Housing construction, and other public construction (including other buildings or improvements, regardless of ownership)

A Section 3 resident is defined as:

	(a) A Public Housing Resident			(b) An individual who resides in the Metropolitan Area and who is:				
SIZE	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person	8 Person
VERY LOW INCOME	\$22,900	\$26,200	\$29,450	\$32,700	\$35,350	\$37,950	\$40,550	\$43,200
LOW INCOME	\$36,650	\$41,850	\$47,100	\$52,300	\$56,500	\$60,700	\$64,900	\$69,050

DATE:	I hereby certify to the best of my knowledge and belief that the information provided in this document is true and correct
	<div style="display: flex; justify-content: space-between; margin-top: 20px;"> <div style="width: 45%; text-align: center;"> <hr style="border: 0; border-top: 1px solid black; margin-bottom: 5px;"/> Name of Authorized Official </div> <div style="width: 45%; text-align: center;"> <hr style="border: 0; border-top: 1px solid black; margin-bottom: 5px;"/> Signature of Authorized Official </div> </div>



SECTION 3
CERTIFICATION



CERTIFICATION FOR BUSINESS CONCERNS SEEKING SECTION 3 PREFERENCE
IN CONTRACTING AND DEMONSTRATION OF CAPABILITY

COMPANY NAME:

ADDRESS:

- TYPE OF BUSINESS:
- CORPORATION
 - PARTNERSHIP
 - SOLE PROPRIETORSHIP
 - JOINT VENTURE

**CHECK THE FOLLOWING DOCUMENTATION THAT APPLIES AS EVIDENCE OF STATUS
FOR SECTION 3 BUSINESS CONCERN**

- **FOR BUSINESS CLAIMING STATUS AS A SECTION 3 RESIDENT OWNED ENTERPRISE:**
 - COPY OF RESIDENT LEASE
 - COPY OF RECEIPT OF PUBLIC ASSISTANCE PROGRAM
- **FOR THE BUSINESS ENTITY AS APPLICABLE:**
 - COPY OF THE ARTICLES OF INCORPORATION
 - CERTIFICATE OF GOOD STANDING
 - ASSUMED BUSINESS NAME CERTIFICATE
 - PARTNERSHIP AGREEMENT
 - LIST OF OWNER/STOCKHOLDER AND % OF EACH
 - CORPORATION ANNUAL REPORT
 - ADDITIONAL DOCUMENTATION
- **FOR BUSINESS CLAIMING SECTION 3 STATUS BY SUBCONTRACTING 25% OF THE DOLLAR AWARDED TO QUALIFIED SECTION 3 BUSINESS**
 - LIST OF SUBCONTRACTED SECTION 3 BUSINESS AND SUBCONTRACT AMOUNT
- **FOR BUSINESS CLAIMING SECTION 3 STATUS, CLAIMING AT LEAST 30% OF THEIR WORKFORCE ARE CURRENTLY SECTION 3 RESIDENTS OR WERE SECTION 3 ELIGIBLE RESIDENTS WITHIN 3 YEARS OF DATE OF FIRST EMPLOYMENT WITH THE BUSINESS:**
 - LIST OF ALL CURRENT FULL TIME EMPLOYEES
 - LIST OF ALL EMPLOYEES CLAIMING SECTION 3 STATUS
 - PHA RESIDENTIAL LEASE
 - OTHER EVIDENCE OF SECTION 3 STATUS

FOR NOT SECTION 3 BUSINESS CONCERN

EVIDENCE OF ABILITY TO PERFORM SUCCESSFULLY UNDER THE TERMS AND CONDITIONS OF THE PROPOSED CONTRACT:

- CURRENT FINANCIAL STATEMENT
- LIST OF OWNED EQUIPMENT
- LIST OF ALL CONTRACTS FOR THE PAST TWO YEARS

AUTHORIZING NAME & SIGNATURE

CORPORATE SEAL

**ALL DOCUMENTATION CHECKED AS EVIDENCE OF THE STATUS MUST BE SUBMITTED
AFTER AWARD OF THE BID AND BEFORE SIGNING THE CONTRACT**



SECTION 3

Contractor Certification of Efforts to Fully Comply with Employment and Training Provisions of Section 3

The bidder represents and certifies as part of its bid/offer the following:

- Is a Section 3 Business concern and has submitted the required certification with the bid.
A Section 3 Business concern means a business concern:
 - a) That is 51% or more owned by Section 3 Resident(s); or
 - b) Whose permanent, full-time employees include persons, at least 30% of whom are currently Section 3 residents, or within the last three years of the date of first employment with the business concern were Section 3 Residents; or
 - c) That provides evidence of a commitment to subcontract in excess of 25% of the dollar value of all subcontracts to be awarded to business concerns that meet the qualifications set forth in paragraphs a) or b) herein.
- Is NOT a Section 3 Business concern but who has and will continue to seek compliance with Section 3 by certifying to the following efforts to be undertaken.

Efforts to award subcontractor to Section 3 concerns (check all that apply.)

- By contacting business assistance agencies, minority contractors associations and community organizations to inform them of the contracting opportunities and requesting their assistance in identifying Section 3 businesses which may solicit bids for a portion of the work.
- By advertising contracting opportunities by posting notices, which provide general information about the work to be contracted and where to obtain additional information, in common areas of the applicable development(s) owned and managed by the Hialeah Housing Authority.
- By providing written notice to all known Section 3 business concerns for contracting opportunities. This notice should be in sufficient time to allow the Section 3 business concerns to respond to bid invitations.
- By following up with Section 3 business concerns that have expressed interest in the contracting opportunities.
- By coordinating meetings at which Section 3 business concerns could be informed of specific elements of the work for which subcontract bids are being sought.
- By conducting workshops on contracting procedures and specific contracting opportunities in a timely manner so that Section 3 business concerns can take advantage of contracting opportunities.
- By advising Section 3 business concerns as to where they may seek assistance to overcome barriers such as inability to obtain bonding, lines of credit, financing, or insurance and aiding Section 3 businesses in qualifying for such bonding, financing, insurance, etc.

FORM B-3

- Where appropriate, by breaking out contract work into economically feasible units to facilitate participation by Section 3 businesses
- By developing and utilizing a list of eligible Section 3 business concerns
- By actively supporting and undertaking joint ventures with Section3 businesses

Efforts to provide training and employment to Section 3 residents

- By entering into a “first source” hiring agreements with organizations representing Section 3 residents.
- By establishing training programs, which are consistent with the requirements of the Department of Labor, specifically for Section 3 residents in the building trades.
- By advertising employment and training positions to dwelling units occupied by Category 1 and 2 residents.
- By contracting resident councils and other resident organizations in the affected housing development to request assistance in notifying residents of the training and employment positions to be filled.
- By arranging interviews and conducting interviews on the job site.
- By undertaking such continued job training efforts as may be necessary to ensure the continued employment of Section 3 residents previously hired for employment opportunities.

Name: _____

Name: _____

Signature: _____

Signature: _____

Title: _____

Title: _____

Bidder/offeror, if the Bidder/offeror is and Individual
Partner, if the Bidder/offeror is a Partnership
Officer, if the Bidder/offeror is a Corporation

Bidder/offeror, if the Bidder/offeror is and Individual
Partner, if the Bidder/offeror is a Partnership
Officer, if the Bidder/offeror is a Corporation

Company Name: _____

Company Name: _____

Date: _____

Date: _____

Subscribed and sworn to before me _____

This ____ day of _____, 20__.

My Commission expires _____, 20__.

(Notary Stamp)

A. APPLICABILITY

The Project or Program to which the construction work covered by this Contract pertains is being assisted by the United States of America, and the following Federal Labor Standards Provisions are included in this Contract pursuant to the provisions applicable to such Federal assistance.

1. Minimum wages and fringe benefits

- i. All laborers and mechanics employed or working upon the site of the work (or otherwise working in construction or development of the project under a development statute), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of basic hourly wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. As provided in 29 CFR 5.5(d) and (e), the appropriate wage determinations are effective by operation of law even if they have not been attached to the contract. Contributions made or costs reasonably anticipated for bona fide fringe benefits under the Davis-Bacon Act (40 U.S.C. 3141(2)(B)) on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(v) of these contract clauses; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics must be paid the appropriate wage rate and fringe benefits on the wage determination for the classification(s) of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: *Provided*, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classifications and wage rates conformed under 29 CFR 5.5(a)(1)(iii)) and the Davis-Bacon poster (WH-1321) must be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

ii. Frequently recurring classifications

- A.** In addition to wage and fringe benefit rates that have been determined to be prevailing under the procedures set forth in 29 CFR part 1, a wage determination may contain, pursuant to § 1.3(f), wage and fringe benefit rates for classifications of laborers and mechanics for which conformance requests are regularly submitted pursuant to 29 CFR 5.5(a)(1)(iii), provided that:
1. The work performed by the classification is not performed by a classification in the wage determination for which a prevailing wage rate has been determined;
 2. The classification is used in the area by the construction industry; and
 3. The wage rate for the classification bears a reasonable relationship to the prevailing wage rates contained in the wage determination.
- B.** The Administrator will establish wage rates for such classifications in accordance with 29 CFR 5.5(a)(1)(iii)(A)(3). Work performed in such a classification must be paid at no less than the wage and fringe benefit rate listed on the wage determination for such classification.

iii. Conformance

- A.** The contracting officer must require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract be

classified in conformance with the wage determination. Conformance of an additional classification and wage rate and fringe benefits is appropriate only when the following criteria have been met:

1. The work to be performed by the classification requested is not performed by a classification in the wage determination; and
 2. The classification is used in the area by the construction industry; and
 3. The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.
- B. The conformance process may not be used to split, subdivide, or otherwise avoid application of classifications listed in the wage determination.
- C. If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken will be sent by the contracting officer by email to DBAconformance@dol.gov. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.
- D. In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer will, by email to DBAconformance@dol.gov, refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.
- E. The contracting officer must promptly notify the contractor of the action taken by the Wage and Hour Division under 29 CFR 5.5 (a)(1)(iii)(C) and (D). The contractor must furnish a written copy of such determination to each affected worker or it must be posted as a part of the wage determination. The wage rate (including fringe benefits where appropriate) determined pursuant to 29 CFR 5.5 (a)(1)(iii)(C) or (D) must be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

iv. Fringe benefits not expressed as an hourly rate

Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor may either pay the benefit as stated in the wage determination or may pay another bona fide fringe benefit or an hourly cash equivalent thereof.

v. Unfunded plans

If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, *Provided*, That the Secretary of Labor has found, upon the written request of the contractor, in accordance with the criteria set forth in 29 CFR 5.28, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

- vi. Interest** In the event of a failure to pay all or part of the wages required by the contract, the contractor will be required to pay interest on any underpayment of wages.

2. Withholding

i. Withholding requirements

The U. S. Department of Housing and Urban Development may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime contractor or any subcontractor for the full amount of wages and monetary relief, including interest, required by the clauses set forth in 29 CFR 5.5(a) for violations of this contract, or to satisfy any such liabilities required by any other Federal contract, or federally assisted contract subject to Davis-Bacon labor standards, that is held by the same prime contractor (as defined in 29 CFR 5.2). The necessary funds may be withheld from the contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to Davis-Bacon labor standards requirements and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld. In the event of a contractor's failure to pay any laborer or mechanic, including any apprentice or helper working on the site of the work (or otherwise working in construction or development of the project under a development statute) all or part of the wages required by the contract, or upon the contractor's failure to submit the required records as discussed in 29 CFR 5.5(a)(3)(iv), HUD may on its own initiative and after written notice to the contractor, sponsor, applicant, owner, or other entity, as the case may be, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

ii. Priority to withheld funds

The Department has priority to funds withheld or to be withheld in accordance with 29 CFR 5.5(a)(2)(i) or (b)(3)(i), or both, over claims to those funds by:

- A. A contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;
- B. A contracting agency for its procurement costs;
- C. A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate;
- D. A contractor's assignee(s);
- E. A contractor's successor(s); or
- F. A claim asserted under the Prompt Payment Act, 31 U.S.C. 3901-3907.

3. Records and certified payrolls

i. Basic record requirements

- A. **Length of record retention.** All regular payrolls and other basic records must be maintained by the contractor and any subcontractor during the course of the work and preserved for all laborers and mechanics working at the site of the work (or otherwise working in construction or development of the project under a development statute) for a period of at least 3 years after all the work on the prime contract is completed.
- B. **Information required** Such records must contain the name; Social Security number; last known address, telephone number, and email address of each such worker; each worker's correct classification(s) of work actually performed; hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in 40 U.S.C. 3141(2)(B) of the Davis-Bacon Act); daily and weekly number of hours actually worked in total and on each covered contract; deductions made; and actual wages paid.
- C. **Additional records relating to fringe benefits.** Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(v) that the wages of any laborer or mechanic include the amount of any

costs reasonably anticipated in providing benefits under a plan or program described in 40 U.S.C. 3141(2)(B) of the Davis-Bacon Act, the contractor must maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits.

D. Additional records relating to apprenticeship Contractors with apprentices working under approved programs must maintain written evidence of the registration of apprenticeship programs, the registration of the apprentices, and the ratios and wage rates prescribed in the applicable programs.

ii. Certified payroll requirements

A. Frequency and method of submission The contractor or subcontractor must submit weekly, for each week in which any DBA- or Related Acts-covered work is performed, certified payrolls to HUD if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the certified payrolls to the applicant, sponsor, owner, or other entity, as the case may be, that maintains such records, for transmission to HUD. The prime contractor is responsible for the submission of all certified payrolls by all subcontractors. A contracting agency or prime contractor may permit or require contractors to submit certified payrolls through an electronic system, as long as the electronic system requires a legally valid electronic signature; the system allows the contractor, the contracting agency, and the Department of Labor to access the certified payrolls upon request for at least 3 years after the work on the prime contract has been completed; and the contracting agency or prime contractor permits other methods of submission in situations where the contractor is unable or limited in its ability to use or access the electronic system

B. Information required The certified payrolls submitted must set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i)(B), except that full Social Security numbers and last known addresses, telephone numbers, and email addresses must not be included on weekly transmittals. Instead, the certified payrolls need only include an individually identifying number for each worker (*e.g.*, the last four digits of the worker's Social Security number). The required weekly certified payroll information may be submitted using Optional Form WH-347 or in any other format desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/wh347.pdf> or its successor website. It is not a violation of this section for a prime contractor to require a subcontractor to provide full Social Security numbers and last known addresses, telephone numbers, and email addresses to the prime contractor for its own records, without weekly submission by the subcontractor to the sponsoring government agency (or the applicant, sponsor, owner, or other entity, as the case may be, that maintains such records).

C. Statement of Compliance Each certified payroll submitted must be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor, or the contractor's or subcontractor's agent who pays or supervises the payment of the persons working on the contract, and must certify the following:

1. That the certified payroll for the payroll period contains the information required to be provided under 29 CFR 5.5(a)(3)(ii), the appropriate information and basic records are being maintained under 29 CFR 5.5 (a)(3)(i), and such information and records are correct and complete;
2. That each laborer or mechanic (including each helper and apprentice) working on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly

from the full wages earned, other than permissible deductions as set forth in 29 CFR part 3; and

3. That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification(s) of work actually performed, as specified in the applicable wage determination incorporated into the contract.
 - D. **Use of Optional Form WH-347** The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 will satisfy the requirement for submission of the “Statement of Compliance” required by 29 CFR 5.5(a)(3)(ii)(C).
 - E. **Signature** The signature by the contractor, subcontractor, or the contractor’s or subcontractor’s agent must be an original handwritten signature or a legally valid electronic signature.
 - F. **Falsification** The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under 18 U.S.C. 1001 and 31 U.S.C. 3729.
 - G. **Length of certified payroll retention** The contractor or subcontractor must preserve all certified payrolls during the course of the work and for a period of 3 years after all the work on the prime contract is completed.
- iii. **Contracts, subcontracts, and related documents** The contractor or subcontractor must maintain this contract or subcontract and related documents including, without limitation, bids, proposals, amendments, modifications, and extensions. The contractor or subcontractor must preserve these contracts, subcontracts, and related documents during the course of the work and for a period of 3 years after all the work on the prime contract is completed.
 - iv **Required disclosures and access**
 - A. **Required record disclosures and access to workers** The contractor or subcontractor must make the records required under 29 CFR 5.5(a)(3)(i)–(iii), and any other documents that HUD or the Department of Labor deems necessary to determine compliance with the labor standards provisions of any of the applicable statutes referenced by 29 CFR 5.1, available for inspection, copying, or transcription by authorized representatives of HUD or the Department of Labor, and must permit such representatives to interview workers during working hours on the job.
 - B. **Sanctions for non-compliance with records and worker access requirements** If the contractor or subcontractor fails to submit the required records or to make them available, or refuses to permit worker interviews during working hours on the job, the Federal agency may, after written notice to the contractor, sponsor, applicant, owner, or other entity, as the case may be, that maintains such records or that employs such workers, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available, or to permit worker interviews during working hours on the job, may be grounds for debarment action pursuant to 29 CFR 5.12. In addition, any contractor or other person that fails to submit the required records or make those records available to WHD within the time WHD requests that the records be produced will be precluded from introducing as evidence in an administrative proceeding under 29 CFR part 6 any of the required records that were not provided or made available to WHD. WHD will take into consideration a reasonable request from the contractor or person for an extension of the time for submission of records. WHD will determine the reasonableness of the request and may consider, among other things, the location of the records and the volume of production.
 - C. **Required information disclosures** Contractors and subcontractors must maintain the full Social Security number and last known address, telephone number, and email address of each covered worker, and must provide them upon request to HUD if the agency is a party to

the contract, or to the Wage and Hour Division of the Department of Labor. If the Federal agency is not such a party to the contract, the contractor, subcontractor, or both, must, upon request, provide the full Social Security number and last known address, telephone number, and email address of each covered worker to the applicant, sponsor, owner, or other entity, as the case may be, that maintains such records, for transmission to HUD, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or other compliance action.

4. **Apprentices and equal employment opportunity**

i. **Apprentices**

- A. Rate of pay** Apprentices will be permitted to work at less than the predetermined rate for the work they perform when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship (OA), or with a State Apprenticeship Agency recognized by the OA. A person who is not individually registered in the program, but who has been certified by the OA or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice, will be permitted to work at less than the predetermined rate for the work they perform in the first 90 days of probationary employment as an apprentice in such a program. In the event the OA or a State Apprenticeship Agency recognized by the OA withdraws approval of an apprenticeship program, the contractor will no longer be permitted to use apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.
- B. Fringe benefits** Apprentices must be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringe benefits must be paid in accordance with that determination.
- C. Apprenticeship ratio** The allowable ratio of apprentices to journeyworkers on the job site in any craft classification must not be greater than the ratio permitted to the contractor as to the entire work force under the registered program or the ratio applicable to the locality of the project pursuant to 29 CFR 5.5(a)(4)(i)(D). Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated in 29 CFR 5.5(a)(4)(i)(A), must be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under this section must be paid not less than the applicable wage rate on the wage determination for the work actually performed.
- D. Reciprocity of ratios and wage rates** Where a contractor is performing construction on a project in a locality other than the locality in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyworker's hourly rate) applicable within the locality in which the construction is being performed must be observed. If there is no applicable ratio or wage rate for the locality of the project, the ratio and wage rate specified in the contractor's registered program must be observed.

- ii Equal employment opportunity** The use of apprentices and journeyworkers under this part must be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

5 **Compliance with Copeland Act requirements.** The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

6 Subcontracts. The contractor or subcontractor must insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (11), along with the applicable wage determination(s) and such other clauses or contract modifications as the U.S. Department of Housing and Urban Development may by appropriate instructions require, and a clause requiring the subcontractors to include these clauses and wage determination(s) in any lower tier subcontracts. The prime contractor is responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this section. In the event of any violations of these clauses, the prime contractor and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss, due to any workers of lower-tier subcontractors, and may be subject to debarment, as appropriate.

7 Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8 Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

9 Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of eligibility.

i. By entering into this contract, the contractor certifies that neither it nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of 40 U.S.C. 3144(b) or 29 CFR 5.12(a).

ii. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of 40 U.S.C. 3144(b) or 29 CFR 5.12(a).

iii. The penalty for making false statements is prescribed in the U.S. Code, Title 18 Crimes and Criminal Procedure, 18 U.S.C. 1001.

11 Anti-retaliation It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:

i. Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the DBA, Related Acts, or 29 CFR parts 1, 3, or 5;

ii. Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under the DBA, Related Acts, or 29 CFR parts 1, 3, or 5;

iii. Cooperating in any investigation or other compliance action, or testifying in any proceeding under the DBA, Related Acts, or 29 CFR parts 1, 3, or 5; or

iv. Informing any other person about their rights under the DBA, Related Acts, or 29 CFR parts 1, 3, or 5.

B. Contract Work Hours and Safety Standards Act (CWHSSA)

The Agency Head must cause or require the contracting officer to insert the following clauses set forth in 29 CFR 5.5(b)(1), (2), (3), (4), and (5) in full, or (for contracts covered by the Federal Acquisition Regulation) by reference, in any contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses must

be inserted in addition to the clauses required by 29 CFR 5.5(a) or 4.6. As used in this paragraph, the terms “laborers and mechanics” include watchpersons and guards.

- 1. Overtime requirements.** No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- 2. Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in 29 CFR 5.5(b)(1) the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages and interest from the date of the underpayment. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchpersons and guards, employed in violation of the clause set forth in 29 CFR 5.5(b)(1), in the sum of \$31 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in 29 CFR 5.5(b)(1).
- 3. Withholding for unpaid wages and liquidated damages**
 - i. Withholding process** The U.S Department of Housing and Urban Development or the recipient of Federal assistance may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime contractor or any subcontractor for any unpaid wages; monetary relief, including interest; and liquidated damages required by the clauses set forth in 29 CFR 5.5(b) on this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract subject to the Contract Work Hours and Safety Standards Act that is held by the same prime contractor (as defined in 29 CFR 5.2). The necessary funds may be withheld from the contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to the Contract Work Hours and Safety Standards Act and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld.
 - ii Priority to withheld funds** The Department has priority to funds withheld or to be withheld in accordance with 29 CFR 5.5(a)(2)(i) or (b)(3)(i), or both, over claims to those funds by:
 - A.** A contractor’s surety(ies), including without limitation performance bond sureties and payment bond sureties;
 - B.** A contracting agency for its procurement costs;
 - C.** A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor’s bankruptcy estate;
 - D.** A contractor’s assignee(s);
 - E.** A contractor’s successor(s); or
 - F.** A claim asserted under the Prompt Payment Act, 31 U.S.C. 3901-3907.
- 4. Subcontracts.** The contractor or subcontractor must insert in any subcontracts the clauses set forth in 29 CFR 5.5(b)(1) through (5) and a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor is responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in 29 CFR 5.5(b)(1) through (5). In the event of any violations of these clauses, the prime contractor and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss,

due to any workers of lower-tier subcontractors, and associated liquidated damages and may be subject to debarment, as appropriate.

- 5 Anti-retaliation** It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:
- i. Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the Contract Work Hours and Safety Standards Act (CWHSSA) or its implementing regulations in 29 CFR part 5;
 - ii. Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under CWHSSA or 29 CFR part 5;
 - iii. Cooperating in any investigation or other compliance action, or testifying in any proceeding under CWHSSA or 29 CFR part 5; or
 - iv. Informing any other person about their rights under CWHSSA or 29 CFR part 5.
- C. CWHSSA required records clause** In addition to the clauses contained in 29 CFR 5.5(b), in any contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other laws referenced by 29 CFR 5.1, the Agency Head must cause or require the contracting officer to insert a clause requiring that the contractor or subcontractor must maintain regular payrolls and other basic records during the course of the work and must preserve them for a period of 3 years after all the work on the prime contract is completed for all laborers and mechanics, including guards and watchpersons, working on the contract. Such records must contain the name; last known address, telephone number, and email address; and social security number of each such worker; each worker's correct classification(s) of work actually performed; hourly rates of wages paid; daily and weekly number of hours actually worked; deductions made and actual wages paid. Further, the Agency Head must cause or require the contracting officer to insert in any such contract a clause providing that the records to be maintained under this paragraph must be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the (write the name of agency) and the Department of Labor, and the contractor or subcontractor will permit such representatives to interview workers during working hours on the job.
- D. Incorporation of contract clauses and wage determinations by reference** Although agencies are required to insert the contract clauses set forth in this section, along with appropriate wage determinations, in full into covered contracts, and contractors and subcontractors are required to insert them in any lower-tier subcontracts, the incorporation by reference of the required contract clauses and appropriate wage determinations will be given the same force and effect as if they were inserted in full text.
- E. Incorporation by operation of law** The contract clauses set forth in this section (or their equivalent under the Federal Acquisition Regulation), along with the correct wage determinations, will be considered to be a part of every prime contract required by the applicable statutes referenced by 29 CFR 5.1 to include such clauses, and will be effective by operation of law, whether or not they are included or incorporated by reference into such contract, unless the Administrator grants a variance, tolerance, or exemption from the application of this paragraph. Where the clauses and applicable wage determinations are effective by operation of law under this paragraph, the prime contractor must be compensated for any resulting increase in wages in accordance with applicable law.

F. HEALTH AND SAFETY

The provisions of this paragraph (F) are applicable where the amount of the prime contract exceeds **\$100,000**.

1. No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his or her health and safety, as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.
2. The contractor shall comply with all regulations issued by the Secretary of Labor pursuant to 29 CFR Part 1926 and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act, (Public Law 91-54, 83 Stat 96), 40 U.S.C. § 3701 et seq.
3. The contractor shall include the provisions of this paragraph in every subcontract, so that such provisions will be binding on each subcontractor. The contractor shall take such action with respect to any subcontractor as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions.