

Request for Proposals
For
Developer Partner(s)
For the Rental Assistance Demonstration (RAD)
And Real Estate Development
For the
Housing Authority of the City of Lubbock

Proposal No. 2018-10-1

Lubbock Housing Authority
1708 Crickets Avenue
Lubbock, TX 79401

(806) 762-1191
Mike Chapman, Executive Director

TABLE OF CONTENTS

| <u>REQUEST FOR PROPOSALS</u> | <u>Page Number</u> |
|------------------------------|--------------------|
| Solicitation Summary | 3 |

PART I — GENERAL INFORMATION

| | | |
|-----|--|---|
| 1.1 | Executive Summary | 5 |
| 1.2 | Housing Authority of the City of Lubbock | 6 |
| 1.3 | Rules, Regulations, and Licensing Requirements | 6 |
| 1.4 | Contract Form and Issues | 6 |
| 1.5 | Contact with the Housing Authority of the City of Lubbock Staff, Commissioners, Residents | 6 |
| 1.6 | Incurred Costs in Preparing Proposal | 7 |
| 1.7 | M/WBE Utilization and Resident Employment | 7 |

PART II — PROJECT INFORMATION

| | | |
|-----|--|----|
| 2.1 | General Overview | 7 |
| 2.2 | General Scope of Services | 9 |
| 2.3 | Preferred Concepts | 11 |
| 2.4 | Development Strategy | 11 |
| 2.5 | Role of the Housing Authority of the City of Lubbock | 12 |
| 2.6 | Role of Developer Partner(s) | 14 |

PART III — PROCUREMENT PROCESS

| | | |
|-----|---|----|
| 3.1 | Directions for Submission | 17 |
| 3.2 | Qualification Criteria | 17 |
| 3.3 | Qualification / Technical Response Requirements | 18 |
| 3.4 | Certifications and Assurances | 19 |
| 3.5 | Organization of Proposals | 20 |
| 3.6 | Evaluation of Proposals | 22 |
| 3.7 | Evaluation Factors | 22 |
| 3.8 | Selection Process | 24 |
| 3.9 | Execution of Contract | 25 |

ATTACHMENTS:

1. Instructions to Bidders for Contracts —HUD 5369
2. Instructions to Offerors non-construction (HUD 5369-B)
3. Statement of Offeror's Qualifications Professional Services Opportunity (Your firm's statement)
4. Form HUD 5369A Representations, Certifications & Other Statements
5. Form of Non-Collusive Affidavit
6. Davis-Bacon Wage Decision
7. M/WBE Utilization Commitment (Your firm's Statement)
8. Certification of Equal Employment
9. Form HUD 5370-C, General Conditions for Non-Construction Contracts Section 1 & 2
10. LHA Section 3 Plan

Solicitation Summary

The Housing Authority of the City of Lubbock, Texas (LHA or Housing Authority) is seeking proposals from qualified Developer Partner(s) to participate in our Rental Assistance Demonstration (“RAD”) Program. The LHA has submitted a portfolio RAD application for its Public Housing sites. LHA owns five (5) public housing developments and 32 public housing units in a mixed finance property totaling 378 units. LHA is seeking developer partners for three sites totaling 178 units. LHA plans to close out the public housing program after the conversion of the public housing units. All properties will be Project Based Vouchers (PBV). LHA will continue to manage all properties.

This RFP will address three sites totaling 178 units: i) Mary Myers consisting of 60 units; (ii) Behner Place consisting of 82 units; and iii) 36 South, consisting of 36 units (collectively, the “RAD Sites”). The Housing Authority contemplates a renovation of the RAD Sites using 9% Low Income Housing Tax Credits. The selected developer(s) will assist LHA in converting the three sites to RAD. LHA reserves the right to select one respondent or make multiple awards based upon its needs and priorities, but the strong preference is to utilize one developer to develop all three sites.

We are seeking a developer who can provide financial resources to assist with the development of these projects. LHA intends to undergo a RAD conversion, converting the aforementioned three public housing properties to Section 8 project based. The Developer Partner will assist LHA through this process and advise LHA staff on financing strategies, RAD rules and regulations, and the application process. LHA has engaged the services of a consultant to assist with financial analysis with respect to the RAD program.

Offerors/Respondents must include corresponding resumes, and evidence of recent successful experience in financing, developing, rehabilitating, constructing, owning and/or operating similar properties. Respondents must demonstrate they have experience with at least three HUD mixed-finance or project based voucher transactions.

Following the submission of proposals on October 29, 2018, LHA will make a decision based on the requirements and evaluation criteria contained within RFP LHA-2018-10-1. The tentative contract award and official launch of the program is **estimated to be** November 9, 2018, pending Housing Authority Board approval.

Details of the RFP (Request for Proposals 2018-10-1) can be obtained online at <https://ha.economicengine.com>. Questions concerning this RFP must be submitted on the NAHRO eprocurement Site at <https://ha.economicengine.com> or in writing to:

Dave Miller
Director of Operations
Lubbock Housing Authority
1708 Cricket Avenue
Lubbock, TX 79401
dave@lubbockha.org

The Housing Authority acknowledges proposals received on or before October 29, 2018 by no later than 12:00 noon (CST). They will not be opened publicly. It is the offeror/responder's responsibility to ensure that its proposal is delivered at the proper time and place. Proposals which, for any reason, are not timely delivered will not be considered and will be returned unopened. Proposals sent by overnight delivery service will be considered timely filed if date stamped by at least one (1) day before the date set for receipt of proposals and time stamped at a time that they should have, pursuant to the express policy of the delivery service used, permitted delivery at the date, time and place set for receipt of proposals. The burden of proof to establish timely filing of a proposal by overnight delivery service shall be solely upon the entity or person submitting the proposal. Offers by telegram, facsimile or telephone are not acceptable.

LHA staff designated to receive proposals will determine when the deadline for receipt of proposals has expired. No responsibility will attach to an officer, employee or agent of LHA for not recognizing or receiving a proposal which is not properly marked, addressed or delivered to the submission place, in the submission method, by the submission date and time.

The Housing Authority of the City of Lubbock reserves the right to reject any or all proposals, to advertise for new proposals to accomplish this solicitation by any means determined to be in the best interest of the LHA. LHA staff will evaluate proposals to determine the best proposal to satisfy the needs of LHA.

LHA PROPOSAL #2018-10- SCHEDULE OF EVENTS:

| | |
|--|------------------------------------|
| Advertise Date of RFP | October 6, 2018 |
| Deadline for Submission of Questions | October 18, 2018 at 12:00 pm CST |
| LHA Response to Questions Issued | October 19, 2018 at 12:00 p.m. CST |
| Deadline for Submission of Proposals | October 29, 2018 at 12:00p.m. CST |
| Interview Begin | November 1, 2018 |
| Award Date/Earliest Possible Contract Start Date | November 9, 2018 |

PART 1 - GENERAL INFORMATION

1.1 Executive Summary

The Housing Authority of the City of Lubbock (LHA) is seeking a Developer Partner(s) to partner in the development of the three RAD Sites.

LHA is the public housing agency serving residents of the City of Lubbock, Texas. LHA seeks to provide housing which is decent, safe and in good repair for low to moderate income families and to make public housing in Lubbock “housing of choice” instead of “housing of last resort.” To that end, LHA has investigated the feasibility of converting its public housing stock to Project Based Vouchers via the U.S. Department of Housing and Urban Development’s Rental Assistance Demonstration (RAD) Program. This conversation may involve non-HUD funding, real estate purchase/sales, and demolition /disposition of existing units.

LHA provides affordable (low) income housing to people in the City of Lubbock, Texas. LHA is committed to providing quality, affordable housing in healthy neighborhoods through partnerships with our residents and other groups, fostering neighborhood development, and opportunities for those we serve to achieve self-sufficiency. LHA receives funding from the Department of Housing and Urban Development (HUD) to administer the Housing Choice Voucher (HCV) and Public Housing (PH) Programs and has managed other affordable housing such as 9% Low Income Housing Tax Credit (LIHTC) financed properties.

The LHA envisions that the selected developer partner(s) would be responsible for working with the LHA and its related entities (LHA and its related entities, as used collectively herein, the "Housing Authority") in arranging the appropriate financing for all phases of development in conjunction with the development of the RAD Sites. The developer partner(s) would also be responsible for securing tax credits as well as other financing. This includes the swift submission of a 9% tax credit application by the deadline established in the Texas Qualified Allocation Plan (QAP) (currently listed as January 9, 2019). The Housing Authority may select one or more than one developer partner(s) that will be responsible for partnering with the Housing Authority for the development of some or all of the RAD Sites, though there is a strong preference to utilize one developer for the RAD Sites.

1.2 Housing Authority of the City of Lubbock

Within our housing portfolio we have low income housing in three program areas: (i) the Public Housing Program providing 346 units in 5 communities in the City of Lubbock; (ii) the Section 8 Program providing approximately 850 Housing Choice Vouchers (HCV); and (iii) the Low Income Housing Tax Credit Program, participating in properties totaling 372 units in three properties, one of which includes an additional 32 public housing units.

1.3 Rules, Regulations and Licensing Requirements

The offerors shall comply with all laws, ordinances, and regulations applicable to the services contemplated herein, especially those applicable to conflict of interest. Offerors are presumed to be familiar with all federal, state, and local laws, ordinances, codes,

rules, and regulations that may in any way affect the services to be provided. The respondent(s) must not be debarred, suspended, or otherwise ineligible to contract with LHA, and must not be included on the General Services Administration's "List of Parties Excluded from Federal Procurement and Non-Procurement Programs" or HUD's Limited Denial of Participation List.

1.4 Contract Form and Issues

No contractual rights shall arise from the process of negotiation until such time as the Housing Authority and the selected Developer Partner or Partners have signed an agreement. Work under the agreement shall commence immediately upon execution of such agreement. Parties further concur that the Lubbock Housing Authority must approve the agreement and both agree to work diligently to implement changes as required. Questions about how to interpret this RFP may arise, and, if so, respondents should submit questions by October 18, 2018 by 4:00 p.m. CST in writing via e-mail to <https://ha.economicengine.com>. LHA shall respond to all questions no later than October 19, 2018 12:00 p.m. CST in writing via e-mail to the interested firms.

1.5 Contact with the Lubbock Housing Authority, Staff, Board of Commissioners, and Residents

During the solicitation process period and subsequent evaluation process, offerors shall NOT make any contact regarding this REQUEST FOR PROPOSALS with the LHA staff, Board of Commissioners or residents other than those identified in the Solicitation Summary of this Request for Proposals.

1.6 Incurred Cost in Preparation of Proposals

The Developer Partner(s) shall be responsible for all costs in preparing a response to this REQUEST FOR PROPOSALS. All material and documents submitted by prospective developer partner(s) shall become property of the LHA and will not be returned. The developer partner(s) selected for further interviews and negotiations shall be responsible for all costs incurred during those processes.

1.7 MBE/WBE Utilization and Resident Employment Goals

The LHA is committed to achieving diversity in the award of contracts and in the purchase of goods and services throughout all aspects of the development initiatives.

The LHA in cooperation with other local, state, and federal agencies, and with the assistance of minority groups and agencies, will actively seek and identify qualified minority and women business enterprises and offer them the opportunity to participate as providers of goods and services.

Even though the LHA has not established any specific goals for MBE/WBE utilization, it is expected that Offerors will submit, as a part of their response to this RFQ, their goals for this particular project.

PART II - PROJECT INFORMATION

2.1 General Overview

- A. All communications regarding this RFP shall be in writing, preferably by email, and must be directed to the following Point of Contact for this RFP.

Dave Miller
Director of Operations
Lubbock Housing Authority
1708 Crickets Avenue
Lubbock, TX 79401
dave@lubbockha.org
Phone (806) 776-2304

- B. Oral Communications: Any oral communications shall be considered unofficial and non-binding with regard to this RFP.
- C. Questions/Clarifications Submission Deadline: Any questions or requests for clarification shall be directed to the Point of Contact via the eprocurement site at <https://ha.economicengine.com> on or before October 18, 2018 at 4:00 p.m. CST.
- D. Delivery Requirement: Each Respondent shall assume the risk of the method of dispatching any communication or proposal to LHA. LHA assumes no responsibility for delays, delivery or system failures resulting from the dispatch.
- E. Reservation of Rights: LHA reserves the right to determine, at its sole discretion, the appropriate and adequate responses to written comments, questions, and requests for clarification.
- F. Amendments: Only LHA's official responses and other official communications pursuant to this RFP shall constitute an amendment to this RFP.
- G. Only LHA's official, written responses and communications shall be considered binding with regard to this RFP. LHA reserves the right to determine, at its sole discretion, the method of conveying official responses and communications pursuant to this RFP (e.g., written, facsimile, electronic mail, posting on LHA's website or other electronic means).
- H. Modification of Solicitation: LHA reserves the right to increase, reduce, add, or delete any item, service or activity to this solicitation as deemed necessary where it is consistent with LHA's policies or strategies to do so.
- I. Modification of Contract: LHA reserves the right to increase or delete any scheduled items, goods, services or activities, and/or increase or reduce the quantity of any scheduled item, goods, service or activity as deemed necessary, to award portions of this RFP, to waive minor informalities and technicalities, and to

make awards consistent with LHA's policies, and the applicable laws governing HUD or other federally regulated programs.

- J. Contractor Status: The Contractor shall be an independent Contractor, and will not be an employee of LHA.
- K. Funding Limitations: LHA shall not be bound to any contract if funding has been disallowed by HUD.
- L. Government Restrictions: In the event any governmental restrictions may be imposed, which would necessitate alteration of the material, quality, workmanship or performance of the goods or services offered, it shall be the responsibility of the successful Respondent(s) to immediately notify LHA in writing specifying the regulation which requires an alteration. LHA reserves the right to accept any such alteration, including any reasonable price adjustments occasioned thereby, or to cancel the contract at no expense to LHA.
- M. Section 3: The successful Respondent(s) shall comply with all applicable provisions of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701U, and the regulations issued pursuant thereto, as set forth in 24 C.F.R. Part 135, and all applicable rules, directives and orders issued by HUD thereunder. Section 3 requires that, to the greatest extent feasible, opportunities for training and employment generated by a Section 3 covered contract be given to public housing residents and other low income persons residing in the metropolitan area, and subcontracts in connection with such contracts be awarded to Section 3 covered business concerns.
- N. Due Diligence: All procurement transactions shall be conducted only with responsible contractors, that is, those Contractors who have the technical and financial competence to perform and who have a satisfactory record of integrity and performance. Where warranted and before awarding a contract, LHA shall review the proposed Contractor's ability to perform the contract successfully, considering factors such as the Contractor's integrity, compliance with public policy, record of past performance (including vendor performance reports and contacting previous clients of the Contractor), and financial and technical resources (an extensive financial review is normally conducted on all non-bonded procurement transactions over \$100,000 in total contract value). Contracts shall not be awarded to debarred, suspended, or ineligible Contractors. LHA shall not contract with firms and/or individuals listed on List of Parties Excluded from Federal Procurement and Non-procurement Programs. If a prospective Contractor is found to be non-responsible, a written determination of non-responsibility shall be prepared, and the prospective Contractor shall be advised of the reasons for the determination.

2.2 General Scope of Services

The Housing Authority is seeking proposals from experienced professional developer partner(s) of affordable housing to plan, finance, and implement innovative development for the RAD Sites with the future possibility that such work might expand to potential development at future sites. We are seeking a developer who can provide financial resources to assist with the development of these projects. LHA plans to undergo a RAD conversion, converting public Housing to Section 8 project based at the three sites. The Developer Partner will assist LHA through this process and advise LHA staff on financing strategies, RAD rules and regulations, and the application process.

The Lubbock Housing Authority is soliciting responses to this Request for Proposals (“RFP”) from qualified firm(s) to provide:

Development services to Develop the RAD Sites utilizing 9% tax credits;

Assist in the submission of one or more low income housing tax credit applications to the Texas Department of Housing and Community Affairs (TDHCA) by the deadline established in the QAP (currently January 9, 2019).

Technical guidance on the transition of any community or communities to the RAD Program; and provide other technical assistance as LHA seeks to reposition its public housing units and other assets under RAD or other U.S. Department of Housing and Urban Development (“HUD”) programs;

The successful firm(s) must possess or have available development and technical expertise in the following HUD Programs, HUD Regulations and related areas: Rental Assistance Demonstration (“RAD”), Low Income Public Housing Program, Housing Choice Voucher Program, Tax Credits, and related conversion/repositioning of affordable housing and/or public housing units/communities. The firm(s) must also excel in preparing low income housing tax credit applications and providing technical guidance to housing authorities regarding RAD conversion and other development/repositioning initiatives. This solicitation is subject to the project budget and fiscal provisions under which LHA operates and award of a contract, subject to funding availability and LHA determination, in its sole and absolute discretion, of its needs.

The LHA expects the selected developer be a partner for the Rental Assistance Demonstration conversion of public housing properties and to provide a turnkey financial structure for the RAD Sites.

LHA anticipates that the following Public Housing Sites will be converted from Public Housing to Section 8 Project Based Units with the Rental Assistance Demonstration (RAD) Program with 9% Low Income Housing Tax Credits:

| Initial RAD Site Name | Unit Count |
|------------------------------|-------------------|
| Mary Myers | 60 |
| Behner Place | 82 |
| 36 South | 36 |

Please note that the Lubbock Housing Authority reserves the right to modify the above list by adding, removing or swapping sites. This RFP covers the RAD Sites: Mary Myers, Behner Place, and 36 South. LHA desires to have an aggressive plan to address Mary Myers, Behner Place, and 36 South which includes the submission of a 9% tax credit application or applications in the next available 9% cycle, due by the date established by TDHCA, currently anticipated to be January 9, 2019.

The LHA also expects for the developer partner(s) to assist in the formulation of a viable relocation plan for public housing residents, if appropriate. Secondly, the developer partner(s) shall develop a financing plan and package specific to financing sources for the development projects. Third, the developer partner(s) shall be responsible for assisting the Housing Authority in the implementation and development of each development site. Fourth, the developer partner(s), in the LHA's sole discretion, may be requested to assist in some aspects of the property management services for the Tax Credit developments under the property management agreements between LHA or its affiliate entity and the property owners.

2.3 Preferred Concept(s)

The LHA seeks a deal incorporating the following concepts. The Developer Partner(s) will provide the construction guaranty, stabilization guaranty, operating deficit guaranty, and all other guaranties through the operating deficit period. LHA, through its non-profit affiliate, will provide the project's long-term compliance guaranty and non-recourse carve-out guaranty, after the operating deficit guaranty period has expired. The LHA envisions the Developer Partner(s) or their affiliate serving as the special limited partner of the partnership until their guaranties expire, with LHA, through its affiliate entity, serving as the general partner. The LHA or their affiliate will manage the property, on terms and conditions customary to the industry and acceptable to all parties, once the project is complete. The Lubbock Housing Authority has experience managing LIHTC properties. A third-party management company reasonably acceptable to the investor, developer, and LHA may be selected to replace the LHA or their affiliate as the property manager in the event of any breach, if any, occurs. Upon termination of the operating deficit period, the Developer Partner will assign its interest to the LHA for ten dollars (\$10.00) consideration. At such time, the guaranty obligations of the Developer Partner(s) and their chosen affiliates will terminate, and the Developer Partner(s) and their affiliates will exit the project.

The LHA foresees its Development Partner(s) retaining all constructions fees, while dividing the Developer Fee on a 50/50 basis; 50% to the LHA, and 50% to the Developer Partner(s). As a means to secure sales tax savings for the project(s),

the LHA or its affiliate will serve as the Master General Contractor and the developer partner's affiliate entity or a third-party entity will serve the role of Sub-General Contractor. All cash flows emanating from the project would flow to the LHA. The LHA is willing to consider offers proposing alterations to the preferred concept for organization and fee sharing with the Developer during the period the Developer remains liable for its guaranties.

2.4 Development Strategy

In undertaking this initiative, as well as the other potential development sites, the Housing Authority's fundamental goal is to provide development and redevelopment housing opportunities for low to moderate income families. The Housing Authority is seeking a developer partner(s) that can provide creative and innovative ways of financing and developing our development properties.

The Development Strategy must address the following:

- A. Integrating Section 8 and low-income housing tax credit rental units with the surrounding neighborhoods.
- B. Encouraging the development of mixed use and facilities that support the new residential community.
- C. Integrating new market-rate rental units within the existing low/moderate income areas through implementation of mixed income development strategies.
- D. Reflecting the architectural nature of the larger community, through new building designs.
- E. Building high quality housing that will be attractive, energy-efficient, and will have long-term viability without extraordinary capital improvement resources.
- F. Identifying new forms of ownership, management, financing, resident selection, and service delivery that will assist the Lubbock Housing Authority in carrying out its mission of providing high quality living environments for families.
- G. Leveraging funds to the maximum extent feasible by aggressively pursuing both the public (state, local, and federal) and private (foundations, conventional, equity, and debt, etc.) sources of funding.
- H. Ownership Structure:

The Developer Partner(s) and the Housing Authority will develop an ownership structure that complies with all Federal regulatory requirements. The structure will identify and define the role of each entity involved. It is the intent of the

Housing Authority to negotiate a development agreement(s) with its developer partner or partners. The Housing Authority reserves the right, in its sole discretion, to serve through a related Housing Authority-controlled entity, as general partner of each ownership entity; provided, however, all ownership structures must be approved by HUD. The Housing Authority will favorably review creative proposals that mitigate risk to the Housing Authority and provide significant fees to the Housing Authority for each phase of the development.

The development of these sites may require a more complex ownership structure. Where possible, LHA desires to retain ownership of land and place the land into the development through a long-term ground lease.

The role of LHA or its affiliate entities will be such as to support an ad valorem tax exemption for the ownership entity.

2.5 Role of the Lubbock Housing Authority

The Housing Authority will play the following roles in the planned conversion of the RAD Sites:

A. Housing Authority Role as Co-Developer and Receipt of Fees.

The Housing Authority expects to play a significant role in each phase of the conversion or development and may in its sole discretion, elect to serve through a related entity as the general partner of each phase owner entity. The Housing Authority expects to receive an appropriate portion of the developer fee and cash flow for each phase (as discussed herein) and will view proposals that structure and budget such fees most favorably for the Housing Authority. The Housing Authority will favorably review creative proposals that structure *ground* lease payments or other fees in addition to the Housing Authority's receipt of a portion of the developer fee and cash flow. However, the Housing Authority shall not provide guaranties or indemnify any third parties and the developer partner(s) will be responsible for all such guaranties and indemnifications.

B. Deal Structure for RAD Sites and Future Sites

The Developer Partner(s) will be responsible for providing comprehensive development services with respect to the physical improvements on the RAD Sites. The Housing Authority will utilize a land lease agreement with each owner entity. As landowner and asset manager, the Housing Authority or its development entity will be concerned about preserving long-term asset value through attentive property management and ensuring compliance with applicable HUD and Housing Authority management requirements. The exact terms and relationships for property management are to be negotiated with the development entity.

C. Relocation/Demolition

The LHA will maintain responsibility for all relocation and demolition activities. The Housing Authority will work with its selected Developer Partner(s) to ensure all relocation and demolition activities are consistent with all federal, state and local requirements. Additionally, the selected Developer Partner(s) will work with the Housing Authority to monitor and track all relocation, demolition and development activities to ensure all activities are implemented according to an agreed upon timeframe.

D. Cooperate with Developer to Obtain Low Income Housing Tax Credits

The Housing Authority will partner with the Developer Partner or Partners to obtain Low Income Housing Tax Credits ("LIHTC"). The Developer Partner(s) will be responsible for preparing the LIHTC application for review, comment and approval of the Lubbock Housing Authority. After receipt of the Housing Authority's approval of an LIHTC application, the Developer Partner(s) shall be responsible for making timely application by the March 30, 2016 deadline, for tax credits to develop each tax credit phase of the conversion or development. The Developer Partner(s) may suggest an alternative financing structure when appropriate.

E. The Housing Authority may, in its sole discretion, use its bonding authority to secure bonds for assisting in financing all identified conversion or development projects.

F. Provide Housing Assistance Payments

Subject to funding availability and HUD requirements, the Housing Authority will make housing assistance payments toward the cost of operating the rental units in accordance with the RAD Program. The terms of the housing assistance payments will be contained in a housing assistance payment ("HAP") contract that will be negotiated between Lubbock Housing Authority and the owner entities for each phase of the conversion or development.

G. Asset Manager

The Housing Authority will continue to have asset management responsibilities related to the units under the HAP contract. As part of its asset management responsibilities, the Housing Authority will monitor and enforce the terms of its Ground Lease and the HAP contract with the owner entities for each phase of the conversion or development.

H. Option/Right of First Refusal

The Housing Authority shall have a right of first refusal to acquire the property at the minimum price permitted under the Internal Revenue Code (i.e. existing debt plus exit taxes). The Lubbock Housing Authority will provide the Developer Partner(s) with business terms regarding the respective partnership agreements.

I. Legal Counsel

The Lubbock Housing Authority will retain Legal Counsel for the revitalization efforts for its sole use. The developer partner(s) has the responsibility of providing its own legal services.

2.6 Role of Developer Partner(s)

The Developer Partner(s) shall be a partner in the effort to revitalize the conversion or development sites and surrounding neighborhoods. For a mixed-income community the Developer Partner(s) shall be required to work closely with the Housing Authority and the surrounding community throughout the revitalization effort. The Developer Partner(s) will be responsible for:

- A. Preparing and submitting a complete financing plan to HUD and other appropriate agencies in a timely manner for all sites.
- B. Assist in securing financing in anticipation of one or more RAD applications or development projects. Also, reviewing and providing guidance of all documents pertaining to temporary and permanent financing, loans, collateralization and other financial strategies necessary for RAD or otherwise relating to the conversion/repositioning of LHA's RAD Sites.
- C. Complying with all representations, terms, conditions, and requirements set forth in the Housing Authority's RAD application, except for changes approved by the Housing Authority and HUD (if and as applicable);
- D. Complying with all requirements related to the HUD Rental Assistance Demonstration program.
- E. Work closely with LHA's legal counsel regarding matters of financing structuring as it relates to IRS Code Section 42, IRS Technical Advice Memoranda (TAMs), other relevant Code Section and other applicable federal, state and local regulations;
- F. The selected Developer Partner(s) will be responsible for any additional market analysis and appraisals to develop and obtain financing for any development phase of the conversion or development.
- G. Preparing applications to obtain 9% tax credits from the TDHCA in accordance with the QAP. The Developer will also be responsible for soliciting, following approval of the solicitation process by LHA, at least three tax credit syndicators to bid on the tax credits received for each LIHTC phase of the conversion or development. The Developer shall be responsible to incorporate all agreed to terms into any solicitation of tax credit syndicators and any subsequent Letters of Interest. The Developer shall provide the Housing Authority with the opportunity to review all syndication proposals and the Housing Authority shall have the right to approve the selection of each syndicator. Additionally, throughout the development process the Developer shall share all syndicator financial projections promptly upon request by the Housing Authority.

- H. Developing design and construction documents; obtaining Housing Authority approval, obtaining TDHCA approval on low-income tax credit units, and obtaining City of Lubbock approvals and permits. If the Housing Authority elects in its sole discretion to pursue bond financing, working with the Lubbock Housing Authority on submission of application and approval for bonds.
- I. Determining realistic public and private financing sources, use, schedule, and availability, assembling financing packages, preparing necessary financing applications, and providing all necessary financial guarantees and assurances.
- J. Coordinating all development activities, including reporting and budget requirements, with the Housing Authority.
- K. Performing other miscellaneous services and other RAD consulting services as may be requested by LHA, from time to time regarding the submitted RAD application(s).
- L. Developing and implementing a Section 3 Employment Program.

The Housing Authority will rely upon the Developer to finance predevelopment activities, but may in its sole discretion, provide other financial sources. The Housing Authority will look more favorably upon proposals where the Developer is responsible for all predevelopment costs.

Developing an approved conversion or Development strategy for development sites. All development plans shall be approved by the Housing Authority. All development strategies shall include, but are not limited to:

Preparation of sketches and renderings, which will reflect the architectural character of any proposed new construction, in addition to any approved modifications to the conversion or development plans that has already been approved.

- O. Identification of various options concerning the following:
 - 1. Feasible financial resources needed and available to implement the plan (i.e. private market lenders, limited partnerships, bond financing, tax credits, Affordable Housing Act initiatives, federal insurance programs, and equity).
 - 2. The plan must address financing in satisfaction of due diligence and the underwriting requirements of conventional lenders, the U. S. Department of Housing and Urban Development (HUD), and the Lubbock Housing Authority.

P. The Lubbock Housing Authority envisions that there shall be multiple sources of funding, which may include, but not limit the following:

1. TDHCA Low-Income Housing Tax Credits
2. Bond Financing
3. Local Contributions
4. Federal Home Loan Bank Financing
5. HOME Funds
6. Historic Tax Credits, if applicable

2.6.1 Sources of additional funding may be sought through economic development grants, etc. The Developer Partner(s) shall be responsible for working with the City and other key organizations to stimulate and support neighborhood-wide revitalization and commercial economic development.

- A. Recommendation of management and marketing options that will insure the successful implementation of the Development Plan.
- B. Procure construction of each phase of the revitalization work in accordance with HUD and Lubbock Housing Authority requirements. Oversee construction and ensure completion in a timely and effective manner. Ensure all required occupancy permits and other necessary approvals are obtained after construction completion to permit occupancy and operation of the development. Ensure compliance with Davis-Bacon requirements.
- C. Assist LHA in implementation of management policies and lease-up activities.
- D. Coordinate, conduct, and document all meetings with any and all public housing residents and resident associations in the surrounding neighborhood, city agencies, officials, HUD, Housing Authority staff; businesses in the area, and any other.
- E. Identify and secure appropriate detailed financial information to support the revitalization and any supportive service initiatives identified.
- F. The selected developer partner(s) shall provide written monthly status reports as well as written and verbal presentations to the Housing Authority. Compliance with the MBE/WBE hiring/training of low-income residents (Section 3) and resident owned businesses must be a part of the monthly status report.
- G. Provide development, operating, and tax credit recapture guarantees through the expiration of the operating deficit guaranty period, as required by Lenders/Equity Providers. Provide a performance and completion guaranty to the Housing Authority.
- H. Secure an option/right of first refusal for the Housing Authority with each LIHTC investor and minimize investor exit taxes due when the Housing Authority exercises its option or right of first refusal.

PART III - PROCUREMENT PROCESS

3.1 Directions for Submission

Five (5) bound and secured copies of proposals, one of which shall be clearly identified with original signatures and in printed form and a labeled electronic format on a USB flash drive, must be submitted to the Lubbock Housing Authority on October 29, 2018 no later than 12:00 Noon. (CST) without exception, at the following address, to be deemed responsive and eligible for consideration. All proposals received will not be publicly opened. No immediate decisions will be made.

To assure that your-proposal arrives at the proper place, on time, and to prevent opening by unauthorized individuals, your proposal must be identified on the envelope or package as follows:

RFP 2018-10-1
RAD Developer Partner
Due: October 29, 2018 at 12:00 p.m. CST

Dave Miller
Director of Operations
Lubbock Housing Authority
1708 Crickets Avenue
Lubbock, TX 79401

3.2 Qualification Criteria

Development Team

The Developer Partner(s) for this project must be capable of handling the development and ongoing oversight of the revitalization projects. The selection committee will evaluate the following:

- A. Previous experience developing and managing affordable housing, including both public housing and low-income tax credit housing.
- B. Previous experience providing development and financial advisory services to Public Housing Authorities.
- C. Experience in successful project management and completion of mixed-finance and mixed-use development under HUD programs.
- D. Previous experience and success in securing financing for mixed finance affordable housing particularly Low-Income Housing Tax Credits and Tax-Exempt Bond Financing.
- E. Financial capability to complete the project.

The Developer Partner(s) should be experienced in financing, managing, and developing multifamily rental housing, and may include design, construction, legal, and financing

professionals as well as licensed general contractor with demonstrated financial capability.

3.3 Qualification Response and Technical Response Requirements

The Developer Partner(s) shall be required to submit the following information in narrative and/or diagrammatic presentation:

A. Team Participants and their Specific Roles

All entities that comprise the team shall be identified, indicating their specialization(s) and specific contribution to the team. Respondents are encouraged to include specialists for all components of the program including design, construction, legal, and financing professionals, as well as expertise in integrating community and supportive services. The Project Manager shall be clearly identified. Ultimately, the identified Project Manager shall be held responsible for the performance of all members of the Development team. If the team members are unrelated parties, the managing party (Project Manager) should enter into individual agreements with each member to assure performance. Any M/WBE team members shall be so identified.

B. Personnel and Table of Organization

Respondents shall submit an organizational chart showing all of the individuals that will be assigned to this development effort. This chart should reflect the hierarchy and lines of communication. Also, resumes of the key individuals shall be included with a detailed description of the responsibilities that they will be required to perform. Additionally, with respect to the Project Manager and lead individuals in each discipline, describe the degree to which such individuals and firms can dedicate their professional time to this initiative.

C. Financial Statements

Respondents shall provide a current financial statement of the development entity, prepared by a Certified Public Accountant along with the most recent audit of such firm. The statement shall show assets, liabilities, and net worth of the entity. These statements shall demonstrate the financial capacity of the Developer Partner(s), or entity what would most likely be responsible for executing all applicable guarantees.

Include a statement disclosing and describing any instance of non-compliance or default in any public housing transaction, including mixed finance or HOPE IV transaction, by the proposer, its affiliates or assigns.

D. Financing Plan

The offerors/respondents shall include a discussion of proposed financing plans. This narrative shall include the development team's reaction to the financing

options included in the REQUEST FOR PROPOSALS and include any suggested alternate or additional source of funding. The respondent shall also indicate if the development entity plans to make any cash investment in the project and shall address its perspective on the priorities of the LHA as set forth in this RFP.

E. References

Three to five (3 — 5) references shall be submitted for each member of the development team. References that are relevant to the scope of work as anticipated in this REQUEST FOR PROPOSALS are desirable.

F. Development Capacity

Respondents should indicate their ability to devote significant team resources to the project.

G. MWBE/Section 3 Goals

The response shall include a discussion of the approach and methods the development team would utilize to encourage MWBE and Section 3 participation in the project. Demonstrated performance by team members successfully implementing programs to maximize minority utilization in other projects will be viewed favorably by the selection committee.

3.4 Certifications and Assurances

The REQUEST FOR PROPOSALS as a general requirement specifies that all work be performed in accordance with professional standards, HUD regulations, requirements and criteria, and local codes, regulations, ordinances and statutes. It is the Lubbock Housing Authority's full expectation and it will be a contractual requirement that the successful respondent fully and routinely meet this requirement.

Provide all required certifications on forms included as *Attachments* of the REQUEST FOR PROPOSALS.

- Solicitation Cover Sheet
- Instructions to Bidders for Contracts (HUD 5369) (form in RFP Attachments)
- Instructions to offers (HUD 5369-B) (form in RFP Attachments)
- Cover Letter of Interest
- Statement of Offeror's Qualifications-Professional Services
- Form HUD — 5369A Representations, Certifications & Other Statements (form in RFP Attachments)

- Certificate stating your firm has never been Debarred or Suspended from Doing Business in Texas (Your firm's form)
- Form of Non-Collusive Affidavit (form in RFP Attachments)
- Economic Opportunity Policy (Your firm's form)
- MWBE Utilization Plan (Your firm's form)
- General conditions for Non-Construction Contracts (HUD 5370-C) (form in RFP Attachments)
- Certification of Equal Employment Opportunity Agreement (form in RFP Attachments)

3.5 Organization of Proposals

The instructions below provide further guidance on the preparation of proposals. Their purpose is to establish the requirements; order and format of proposals so that proposals are complete, contain all essential information, and can be evaluated easily.

Assemble your submission in the order described below:

A. Letter of Interest

Each proposal shall be accompanied by a letter of interest listing the development team members and identifying the primary contact person. The letter should summarize briefly the team's qualifications and past experience relevant to the proposed project.

B. Team Experience and Qualifications (address all items in RFP Section 3.3)

1. Organizational Chart

Respondents shall submit an organizational chart showing all of the individuals/firms that will be assigned to this development effort. This chart should reflect the hierarchy and lines of communication. Provide a narrative on the composition of the development team, including developer partner(s), architect, engineer, developer attorney, general contractor, financial advisor (if applicable), and the anticipated relationships of these team members. Also, in accordance with the stated preferences of the Housing Authority in this RFP, please clearly identify how you propose to involve the Housing Authority as a co-developer and in the ownership structure. This RFP lists, at Section 2.3, the preferred concepts regarding ownership.

1. Profile of the Developer Partner(s)

Provide an overview of Developer Partner(s)' experience in developing housing similar to what is proposed. Identify all market-rate, public housing, Section 8, Project Based, and LIHTC efforts the development entity has been involved in. Provide profiles on the key staff, including the Project Manager that is anticipated to be involved in the Revitalization effort. This information shall specify key roles and previous experience with housing development and Revitalization efforts. Attach resumes of all key personnel of the development entity. Attach financial statements from developer partner(s) and the individual designated as Project Manager. Attach references as described in Section 3.3.

2. Profile of Development Team Members

For each team member not directly employed by the development entity, provide an overview of their experiences in contributing to affordable housing conversion or development in a role as anticipated in your response to this solicitation. Include the resumes of all such team members.

3. List and Executive Summary of Recent Relevant Development Experience

4. Application Development Schedules –

This schedule should denote the process in which the Respondent plans to aggressively meet the time frames regarding the preparation and submission of tax credit application or applications for the RAD Sites (Mary Myers, Behner Place and 36 South) which is due, according to the current schedule, January 9, 2019. LHA will entertain additional proposed schedule or schedules which also includes the Future Sites and other possible development projects such as development for RHF funds.

5. MWBE/Section 3 Goals

6. Contract Requirements and Certifications

Provide all required certifications on forms included as attachments of the REQUEST FOR QUALIFICATIONS as described in Section 3.5.

7. Other Attachments

Respondents may attach, at the end of their submission, other promotional materials or work products that would demonstrate their experience and qualifications.

3.6 Evaluation of Proposals

All proposals shall be evaluated based on the evaluation criteria outlined below. A Selection Committee shall be established and will be responsible for overseeing the selection process and making a recommendation for approval. The Selection Committee shall determine a competitive range based on the established criteria and point system

as detailed below. Each respondent that falls within the competitive range shall be granted an interview with the Selection Committee.

The Selection Committee may consider unacceptable any proposal for which critical information is lacking, or whose submission represents a major deviation from the requirements of this RFP. Minor omissions, such as incomplete references may be, at the sole option and discretion of the Lubbock Housing Authority, corrected subsequent to the submission due date.

3.7 Evaluation Factors

The following evaluation factors shall be used in determining the competitive range, with a total possible score of **100** points.

| EVALUATION CRITERIA | MAXIMUM POINTS |
|---|----------------|
| <p>Experience and Qualifications: Experience in development, finance, and property management of rental housing including public housing, Section 8, RAD, tax credit, market-rate, and mixed-income. Offerors should submit a list of references for whom the firm provided similar services. Capability and experience of the members of the Developer Partner's team; and, determination of availability of all required skills necessary for the development process. Experience with community-based development, including Collaboration with community organizations. Evidence of quality performance on-time and on-budget.</p> | 25 |
| <p>Financial Capacity: Overall financial strength of the Developer Partner(s). Demonstrated record of financing affordable housing projects through a variety of funding sources and knowledge and experience working with the funding sources identified in this RFP. Successful development of projects utilizing low-income housing tax credits. Contribution of Developer Partner and demonstrated ability to bring financial resources to leverage dollars and to create a desired mix of housing.</p> | 20 |
| <p>Development: Completeness and responsiveness to all requirements and priorities of LHA as described in this RFP, including but not limited to participation of LHA in the development structure. (LHA reserves the right to declare incomplete proposals as non-responsive) Demonstrated conceptual understanding of RAD as a new HUD program and similar HUD programs such as HUD mixed-finance, project based vouchers, FHA financing, etc. Clarity and coherence of presentation. Concept and proposed structuring. Enhancement of neighborhood appearance. Planned assistance for long-term property management and asset management. Involvement of residents in planning, operations, and benefits.</p> | 20 |
| <p>Price/Fee: Offeror must submit all of its proposed fees as a separate attachment. Pricing/fees should be submitted separately for each property. Offeror should describe how it will provide services in a way that will allow LHA to (i) anticipate the estimated cost of the services; (ii) control the costs of the services. LHA reserves the right to negotiate fees and cost with the Offeror(s) it tentatively selects and to reject that Offeror should those negotiations be unsuccessful. LHA must judge the Offeror's proposed fees to be reasonable. LHA has a strong preference for proposals that envision construction fees going to the Developer, the Developer fee split 50/50 between the LHA and the Developer, initial 5% management</p> | 30 |

| | |
|--|----------------|
| <p>fee to the Developer, and project cash flow going to the LHA. Alternate fee splitting proposals during the Developer's guaranty period will be considered.</p> <p>Note: The person signing the Fee Proposal must be a person authorized to bind the Respondent contractually. Unsigned offers will be rejected. Unsigned offers cannot be signed after the proposal has been opened. No signatures shall be in pencil.</p> | |
| <p>MWBE, Local Participation and Section 3: Provision for MWBE and Section 3 local participation, equal Opportunity, affirmative action, and past experience in achieving such participation.</p> | 5 |
| <p>MAXIMUM TOTAL</p> | 100 PTS |

3.8 Selection Process

LHA will use the following process to evaluate proposals. In its sole discretion, LHA may change both this process and the schedule.

A. Review for Compliance with Submission Requirements

Proposals that arrive at LHA by the due date and time will be opened by LHA's Contracting Officer or his/her designee. LHA will initially review all proposals to determine if they comply with the submission requirements specified in this RFP. LHA may reject any proposal without further review if LHA in its sole judgment determines that the proposal does not comply with these requirements. LHA may also reject without further review any proposal that in LHA's sole judgment deviates significantly from the requirements of this RFP. LHA may, in its sole option and discretion, allow a respondent to later correct minor omissions, informalities or irregularities.

B. Ranking

An Evaluation Committee that LHA will convene (the "Committee") will review all responsive proposals according to the criteria set forth in this RFP for the selection of respondents that are the most advantageous to LHA based on the evaluation criteria. The Committee will rank the respondents according to said criteria. LHA may also engage in site visits, in its sole discretion, as may be deemed appropriate to determine respondent's reasonable chance of being selected for award. The Committee shall designate the respondents, based upon this evaluation, into one of three (3) groups: (i) acceptable; (ii) potentially acceptable; (iii) unacceptable. LHA will not give further consideration to unacceptable proposals.

C. With or Without Discussions and Oral Interviews

The Committee or someone it designates for the purpose may conduct separate discussions, which may involve an in-person or telephonic interview, with each respondent designated acceptable or potentially acceptable. The purpose of these discussions would be to ensure that each respondent understand the work to be performed.

LHA reserves the right to proceed in its evaluation without discussions.

D. Written Modification of Proposal

Each respondent may submit a written modification of their proposal within five (5) days after any such discussion.

E. Best and Final Offers

LHA will invite the respondents deemed acceptable or potentially acceptable to submit a "best and final offer" by a specified date and time. If respondents do not submit a best and final offer, or a notice of withdrawal, the previous offer shall be constructed as their best and final offer.

F. Final Ranking

The Committee shall make a final ranking of the respondents using the criteria in this RFP. It shall then make a recommendation to LHA's Executive Director.

G. Negotiation of Contract

LHA will attempt to negotiate a contract with the chosen respondent(s), including an agreement on a fair and reasonable price. If negotiations are not successful, LHA will attempt negotiations with the next highest ranked respondent, and so on until it contracts for a fair and reasonable price or until it terminates the process.

H. Proposal Evaluation Period

During the period when proposal evaluation is being conducted, all proposal details, analyses and scoring (preliminary or otherwise) are confidential. This measure maintains the integrity of LHA's procurement system. No LHA personnel in any office is permitted to discuss information pertinent to any proposal during this period. Violation of the confidentiality of proposals pending award seriously compromises LHA in establishing contractual agreements and may result in the disqualification of the respondent from this procurement action.

3.9 Execution of Contract

Subsequent to the award and within ten (10) days after the prescribed forms are presented for signature, the successful respondent shall execute and deliver to the LHA Board, a signed contract and all insurance certificates, licenses, permits, etc., required in this solicitation and be ready to implement the services at the end of the ten (10) day period, or such longer time period as LHA may specify in writing.

A. Laws and Regulations

The Contractor(s) shall at all times observe and comply with laws, statues, ordinances, regulations and codes of the Federal, State, County and local government agencies, which may in any manner affect the performance of the Contractor(s) and in particular any such laws pertaining to safety.

B. Indemnification

Contractor(s) expressly agrees to indemnify and hold harmless the LHA from all losses, costs, damages and/or expenses with respect to all demand claims, suits, and/or judgments for personal injuries, including death, to any person (including but not limited to third parties, employees of LHA, employees of Contractor or and sub-contractor and their dependents or personal representatives) or damages to property to any person arising by reason of any act or omission, negligent or otherwise, either by Contractor or by sub-contractors or the employees or agents of either of them. Contractor further agrees to defend LHA to reimburse LHA for any reasonable cost and expense, including attorney's fees, which LHA may incur or be put forth for defense from any such claim.

C. Right to Audit

Contractor shall make available for audits its books, records, ledgers, and other pertinent documentation showing the basis for the costs claimed under the contract. These books and records shall be made available to the LHA internal and external auditors.

D. Retention of Records

The contractor shall maintain the records pertaining to billings for a period of three (3) years after the contract is terminated and audited by LHA.

E. Limitations

This RFP is issued only to solicit proposals as identified herein. The Lubbock Housing Authority and its Board of Directors are in no way committed hereby to accept or award any contracts to any Contractor(s). The final decisions to award any contract to any Contractor(s) rest with the Lubbock Housing Authority Board.

F. Contract Administrator

The Contractor(s) is to provide a contact person during the period of performance of the contract for prompt contract administration. The designated representative to be contacted during the period of performance of this contract will be specified in the award contract and/or the Notice to Proceed.

G. Contract Enforcement

If a contractor fails to comply with any term of an award whether stated in a federal statute or regulation, an assurance, or program plan and/or agreement, LHA may take one or more of the following actions;

1. Withhold Payments. Temporarily withhold cash payments pending correction of the deficiency by the contractor.
2. Disallow Activity. Disallow all or part of the cost of the activity or action not in compliance.
3. Suspend or Terminate Award. Wholly or partly suspend or terminate the current award for the program and/or services.
4. Withhold Further Awards. Withhold further or future awards for the program.
5. Other Actions. Take other legal or equitable remedies that may be legally available.
6. Costs incurred by the contractor during a suspension or after a termination of an award are not allowable unless approved in writing by LHA.

H. Termination of Contract for Convenience

LHA may terminate the contract agreement for convenience or for failure of the Contractor to fulfill contract obligations. LHA shall terminate by delivering to the Contractor a Notice of

Termination. Upon receipt of such notice, the Contractor shall immediately discontinue all services affected and deliver to the LHA all information, reports, paper and other materials accumulated or generated in performing this contract whether completed or in process. If the termination is for convenience of LHA, LHA shall be liable only for payment for accepted services rendered before the effective date of termination.

I. No Guaranteed Minimum

Under this contract LHA reserves the right to make multiple awards and to pursue alternate contract agreement to meet its needs for the Services and related activities how and when, at its sole judgment and discretion, deems is in the best interest of its operations or strategic vision. The LHA offers no guarantee minimum quantities to be procured under this solicitation or any resultant agreement or contract.

J. Reporting/Auditing Requirements

LHA reserves the right to conduct a financial and operational review and/or audit of the books and records of Respondent(s) and/or any other provider of the goods and services under this RFP. Such records shall include, but not be limited to Service and Audit Records, and Financial and Invoice Records.

K. Ownership of Data and Materials

All data, material and documentation either prepared for or by LHA pursuant to this RFP and/or contract shall belong exclusively to the Lubbock Housing Authority.

**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

Table of Contents

| Clause | Page |
|--|------|
| 1. Bid Preparation and Submission | 1 |
| 2. Explanations and Interpretations to Prospective Bidders | 1 |
| 3. Amendments to Invitations for Bids | 1 |
| 4. Responsibility of Prospective Contractor | 1 |
| 5. Late Submissions, Modifications, and Withdrawal of Bids | 1 |
| 6. Bid Opening | 2 |
| 7. Service of Protest | 2 |
| 8. Contract Award | 2 |
| 9. Bid Guarantee | 3 |
| 10. Assurance of Completion | 3 |
| 11. Preconstruction Conference | 3 |
| 12. Indian Preference Requirements | 3 |

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 and 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.

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:]

**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

Table of Contents

| Clause | Page |
|--|------|
| 1. Certificate of Independent Price Determination | 1 |
| 2. Contingent Fee Representation and Agreement | 1 |
| 3. Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions | 1 |
| 4. Organizational Conflicts of Interest Certification | 2 |
| 5. Bidder's Certification of Eligibility | 2 |
| 6. Minimum Bid Acceptance Period | 2 |
| 7. Small, Minority, Women-Owned Business Concern Representation | 2 |
| 8. Indian-Owned Economic Enterprise and Indian Organization Representation | 2 |
| 9. Certification of Eligibility Under the Davis-Bacon Act | 3 |
| 10. Certification of Nonsegregated Facilities | 3 |
| 11. Clean Air and Water Certification | 3 |
| 12. Previous Participation Certificate | 3 |
| 13. Bidder's Signature | 3 |

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)

- | | |
|---|---|
| <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 |

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)

NON-COLLUSIVE AFFIDAVIT FORM

AFFIDAVIT

State of _____

County of _____

_____, being first duly sworn, deposes and says:

That he/she is _____ of the party (a partner or officer of the firm of, etc.) making the foregoing proposal of 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 affiant or of any other bidder, or to fix any overhead, profit or cost element of said bid price, or of that of any other bidder, or to secure any advantage against the Housing Authority of the City of Lubbock, Texas 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 to before me this _____ Day of _____, 20_____.

Notary Public, _____, County

Notary Signature

My commission expires _____ .

WELDERS - Receive rate prescribed for craft performing
operation to which welding is incidental.

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Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of "identifiers" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than "SU" or "UAVG" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

Survey Rate Identifiers

Classifications listed under the "SU" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- * an existing published wage determination
- * a survey underlying a wage determination
- * a Wage and Hour Division letter setting forth a position on a wage determination matter
- * a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests

for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

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Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

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U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

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END OF GENERAL DECISION

General Decision Number: TX180334 09/14/2018 TX334

Superseded General Decision Number: TX20170334

State: Texas

Construction Type: Building

Counties: Crosby and Lubbock Counties in Texas.

BUILDING CONSTRUCTION PROJECTS (does not include single family homes or apartments up to and including 4 stories).

Note: Under Executive Order (EO) 13658, an hourly minimum wage of \$10.35 for calendar year 2018 applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least \$10.35 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in calendar year 2018. The EO minimum wage rate will be adjusted annually. Please note that this EO applies to the above-mentioned types of contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but it does not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60). Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

| Modification Number | Publication Date |
|---------------------|------------------|
| 0 | 01/05/2018 |
| 1 | 06/01/2018 |
| 2 | 09/14/2018 |

BOIL0074-003 01/01/2017

| | Rates | Fringes |
|------------------|----------|---------|
| BOILERMAKER..... | \$ 28.00 | 22.35 |

CARP0665-001 05/01/2017

| | Rates | Fringes |
|----------------|----------|---------|
| CARPENTER..... | \$ 22.25 | 7.31 |

ELEC0602-008 09/01/2016

| | Rates | Fringes |
|------------------|----------|---------|
| ELECTRICIAN..... | \$ 21.31 | 3%+9.05 |

ENGI0178-005 06/01/2014

| | Rates | Fringes |
|--|----------|---------|
| POWER EQUIPMENT OPERATOR | | |
| (1) Tower Crane..... | \$ 29.00 | 10.60 |
| (2) Cranes with Pile Driving or Caisson Attachment and Hydraulic Crane 60 tons and above..... | \$ 28.75 | 10.60 |
| (3) Hydraulic cranes 59 Tons and under..... | \$ 27.50 | 10.60 |

* IRON0084-011 06/01/2018

| | Rates | Fringes |
|-----------------------------|----------|---------|
| IRONWORKER, ORNAMENTAL..... | \$ 23.77 | 7.12 |

IRON0263-003 06/01/2017

| | Rates | Fringes |
|-----------------------------|----------|---------|
| IRONWORKER, STRUCTURAL..... | \$ 23.25 | 7.32 |

PLUM0404-001 07/01/2016

| | Rates | Fringes |
|--------------|----------|---------|
| PLUMBER..... | \$ 25.91 | 9.40 |

SHEE0049-001 06/01/2018

| | Rates | Fringes |
|--|----------|---------|
| SHEET METAL WORKER (HVAC Duct Installation Only)..... | \$ 24.49 | 11.71 |

SUTX2014-060 07/21/2014

| | Rates | Fringes |
|---|----------|---------|
| BRICKLAYER..... | \$ 20.04 | 0.00 |
| CEMENT MASON/CONCRETE FINISHER... | \$ 19.60 | 0.00 |
| INSULATOR - MECHANICAL (Duct, Pipe & Mechanical System Insulation)..... | \$ 19.77 | 7.13 |
| IRONWORKER, REINFORCING..... | \$ 12.27 | 0.00 |
| LABORER: Common or General..... | \$ 12.35 | 0.00 |
| LABORER: Mason Tender - Brick... | \$ 11.36 | 0.00 |
| LABORER: Mason Tender - Cement/Concrete..... | \$ 10.58 | 0.00 |
| LABORER: Pipelayer..... | \$ 12.49 | 2.13 |

| | | |
|---|----------|------|
| LABORER: Roof Tearoff..... | \$ 11.28 | 0.00 |
| OPERATOR: Backhoe/Excavator/Trackhoe..... | \$ 14.25 | 0.00 |
| OPERATOR: Bobcat/Skid Steer/Skid Loader..... | \$ 13.93 | 0.00 |
| OPERATOR: Bulldozer..... | \$ 18.29 | 1.31 |
| OPERATOR: Drill..... | \$ 16.22 | 0.34 |
| OPERATOR: Forklift..... | \$ 14.83 | 0.00 |
| OPERATOR: Grader/Blade..... | \$ 13.37 | 0.00 |
| OPERATOR: Loader..... | \$ 13.55 | 0.94 |
| OPERATOR: Mechanic..... | \$ 17.52 | 3.33 |
| OPERATOR: Paver (Asphalt, Aggregate, and Concrete)..... | \$ 16.03 | 0.00 |
| OPERATOR: Roller..... | \$ 12.70 | 0.00 |
| PAINTER (Brush, Roller, and Spray)..... | \$ 14.27 | 0.00 |
| ROOFER..... | \$ 13.75 | 0.00 |
| SHEET METAL WORKER, Excludes HVAC Duct Installation..... | \$ 21.13 | 6.53 |
| TILE FINISHER..... | \$ 11.22 | 0.00 |
| TILE SETTER..... | \$ 14.00 | 2.01 |
| TRUCK DRIVER: Dump Truck..... | \$ 12.39 | 1.18 |
| TRUCK DRIVER: Flatbed Truck..... | \$ 19.65 | 8.57 |
| TRUCK DRIVER: Semi-Trailer Truck..... | \$ 12.50 | 0.00 |
| TRUCK DRIVER: Water Truck..... | \$ 12.00 | 4.11 |

WELDERS - Receive rate prescribed for craft performing
operation to which welding is incidental.

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Note: Executive Order (EO) 13706, Establishing Paid Sick Leave
for Federal Contractors applies to all contracts subject to the
Davis-Bacon Act for which the contract is awarded (and any
solicitation was issued) on or after January 1, 2017. If this
contract is covered by the EO, the contractor must provide

employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

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rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

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A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- * an existing published wage determination
- * a survey underlying a wage determination
- * a Wage and Hour Division letter setting forth a position on a wage determination matter
- * a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

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Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

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Washington, DC 20210

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END OF GENERAL DECISION

General Decision Number: TX180007 01/05/2018 TX7

Superseded General Decision Number: TX20170007

State: Texas

Construction Types: Heavy and Highway

Counties: Armstrong, Carson, Crosby, Ector, Irion, Lubbock, Midland, Potter, Randall, Taylor and Tom Green Counties in Texas.

HEAVY & HIGHWAY CONSTRUCTION PROJECTS

Note: Under Executive Order (EO) 13658, an hourly minimum wage of \$10.35 for calendar year 2018 applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least \$10.35 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in calendar year 2018. The EO minimum wage rate will be adjusted annually. Please note that this EO applies to the above-mentioned types of contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but it does not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60). Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

Modification Number Publication Date
0 01/05/2018

* SUTX2011-002 08/02/2011

| | Rates | Fringes |
|--|----------|---------|
| CEMENT MASON/CONCRETE FINISHER (Paving & Structures)... | \$ 13.55 | |
| ELECTRICIAN..... | \$ 20.96 | |
| FORM BUILDER/FORM SETTER | | |
| Paving & Curb..... | \$ 12.36 | |
| Structures..... | \$ 13.52 | |
| LABORER | | |
| Asphalt Raker..... | \$ 12.28 | |
| Flagger..... | \$ 9.30 | |
| Laborer, Common..... | \$ 10.30 | |
| Laborer, Utility..... | \$ 11.80 | |
| Work Zone Barricade Servicer..... | \$ 10.30 | |

POWER EQUIPMENT OPERATOR:

| | |
|--|----------|
| Asphalt Distributer..... | \$ 14.87 |
| Asphalt Paving Machine..... | \$ 13.40 |
| Broom and Sweeper..... | \$ 11.21 |
| Crane, Lattice Boom 80 Tons or Less..... | \$ 16.82 |
| Crawler Tractor Operator.... | \$ 13.96 |
| Excavator, 50,000 lbs or less..... | \$ 13.46 |
| Front End Loader Operator, Over 3 CY..... | \$ 12.77 |
| Front End Loader, 3CY or less..... | \$ 12.28 |
| Loader/Backhoe..... | \$ 14.18 |
| Mechanic..... | \$ 20.14 |
| Milling Machine..... | \$ 15.54 |
| Motor Grader, Rough..... | \$ 16.15 |
| Motor Grader, Fine..... | \$ 17.49 |
| Pavement Marking Machine.... | \$ 16.42 |
| Reclaimer/Pulverizer..... | \$ 12.85 |
| Roller, Asphalt..... | \$ 10.95 |
| Roller, Other..... | \$ 10.36 |
| Scraper..... | \$ 10.61 |
| Spreader Box..... | \$ 12.60 |

Servicer.....\$ 13.98

Steel Worker (Reinforcing).....\$ 13.50

TRUCK DRIVER

| | |
|---------------------------------------|----------|
| Lowboy-Float..... | \$ 14.46 |
| Single Axle..... | \$ 12.74 |
| Single or Tandem Axle Dump.. | \$ 11.33 |
| Tandem Axle Tractor with Semi..... | \$ 12.49 |

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

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Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information

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Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

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A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- * an existing published wage determination
- * a survey underlying a wage determination
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END OF GENERAL DECISION

**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. 9/30/2016)

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 referenced 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.

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

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.

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- (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.

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

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.

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)

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

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

- 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

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.

HOUSING AUTHORITY OF THE CITY OF LUBBOCK

SECTION 3 PLAN

EMPLOYMENT OPPORTUNITIES FOR BUSINESS AND LOW-INCOME PERSONS IN CONNECTION WITH FEDERALLY-ASSISTED PROJECTS

A. PURPOSE

To ensure that employment and other economic opportunities generated by certain HUD assistance or HUD-assisted projects covered by Section 3 shall, to the greatest extent feasible, and consistent with existing Federal, State and local laws and regulations, be directed to low- and very low-income persons, particularly those who are recipients of HUD assistance for housing.

B. POLICY

It shall be the policy of the Housing Authority of the City of Lubbock:

1. To comply with Federal regulations as required by "Section 3" of the Housing and Urban Development Act of 1968, as amended. (12 U.S.C., 1701u)
2. To provide an ongoing program which assures the opportunity for job training, employment and recruitment of low-income and very low-income persons within the metropolitan area (or Non-metropolitan County) in which the assistance is expended.
3. To assure that contract work in connection with projects be awarded to business concerns which are located in the project metropolitan area, or owned in substantial part by area residents.
4. To ensure maximum compliance with "Section 3" regulations, by requiring a written "Section 3" Plan from all prospective bidders, along with the submission of all bid proposals. Prospective bidders shall be required to submit their utilization goals which shall be reviewed for its compliance with the Housing Authority "Section 3" Plan as a part of their contract.

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5. To encourage firms outside the project area to joint venture proposals with local area firms in the bidding process.

C. DEFINITIONS

1. PHA - The Housing Authority of the City of Lubbock, Texas,, herein referred to as "PHA".
2. Applicant - The Housing Authority of the City of Lubbock, Texas.
3. Contracting Party - The Housing Authority of the City of Lubbock, Texas.
4. Contractor - The individual, company, corporation, partnership, or other entity which contracts to perform work generated by the expenditure of Section 3 covered assistance in connection with a Section 3 covered project.
5. Business Concerns Located Within the Area - Individuals or firms located in the City of Lubbock, Texas, employing primarily, residents of the city, or owned principally by residents of the city, which qualify as a small business under the small business size standards of the Small Business Administration, U.S. Department of Commerce.
6. Project Area - Technically it is the entire area encompassed within City of Lubbock, Texas, and as entire metropolitan area. The authority to determine this project area resides with either the Regional Administrator or Field Office Manager at the HUD Regional Office.
7. Section 3 Business Concern Means a Business Concern as Defined Below:
 - a. That is fifty-one (51) percent or more owned by Section 3 residents; or
 - b. Whose permanent, full-time employees include persons, at least thirty (30) percent of whom are currently Section 3 residents, or within three (3) 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 twenty-five (25) percent of the dollar award of all subcontracts to be awarded to business concerns that meet the qualifications set forth in paragraphs a. and b. in this definition of "Section 3 business concern."
8. Low-Income Residents - Any individual who resides in the metropolitan area and whose family income does not exceed eighty (80) percent of the median income for the Standard Metropolitan Statistical Area, in which the project is located.
9. Very Low-Income Residents - Any individual who resides in the metropolitan

area and whose family income does not exceed fifty (50) percent of the median income for the Standard Metropolitan Statistical Area, in which the project is located.

10. Section 3 - "Section 3" of the Housing and Urban Development Act of 1968. (12 U.S.C. 1701u) (Section 3).
11. "Section 3" Clause - The contract provisions set forth in 24 CFR part 135. See Appendix A for precise language.
12. "Section 3" Covered Programs - "Section 3" applies to direct financial assistance awarded, provided or otherwise made available under any program administered by HUD, in the form of loans, grants, (including community development block grants), cooperative agreements, subsidies, contributions, or other types of financial assistance provided in aid of housing, urban planning development, redevelopment, or general, public or community facilities, and new community development.
13. No Thresholds for PHAs and Their Contractors and Subcontractors - HUD maintains that a dollar threshold in Section 3 cover programs is inconsistent with the statute.
14. Subcontractor - Any entity which has agreed to undertake a portion of the Contractor's obligations under a contract with the PHA.

D. BIDDING REQUIREMENTS

The PHA will require prospective bidders to provide with the bid, a written "Section 3" Action Plan showing their intent to comply with the Section 3 Plan. Prior to execution of a contract, a preliminary statement of work force needs (skilled, semiskilled labor, and trainees, which the PHA will supply a list of potential candidates for the program) where known.

The "Invitation for Bid" shall advise prospective contractors of the requirements of "Section 3" regulations as part of the contract specification. Eligible business concerns shall be recruited for covered projects by personal contacts, local media, community organizations and public and private institutions which serve the project area.

E. CONTRACTUAL REQUIREMENTS (Section 3 Clause)

In all contracts for work in connection with a project, a "Section 3" Clause shall be included as part of the bid package. See Appendix A.

F. EMPLOYMENT AND TRAINING - UTILIZATION OF LOW-INCOME AREA RESIDENTS AS TRAINEES

To ensure that each contractor or subcontractor undertaking work in connection with a "Section 3" covered project utilizes low-income residents of the area as trainees to the greatest extent feasible, the PHA shall require evidence that effort has been made to:

1. Utilize the maximum number of persons in the various training categories.
2. Fill all vacant training positions (if any) with low-income project area residents except for those training positions which remain unfilled after a good faith effort has been made to fill them with eligible low-income project area residents.

G. ESTABLISHING THE NUMBER OF TRAINEES

1. For the building construction occupations, the number of trainees or apprentices shall be that number which can reasonably be utilized in each occupation on each phase of a "Section 3" covered project and in no event shall that number be less than the number of apprentices determined pursuant to regulations by the Secretary of Labor for each building construction occupation.

The awarded contractor should take into consideration the wages and benefits that for workers and trainees and the maximum dollars under his/her contract that should be allocated to resident training in comparison with the duration of the job, and plan for maximum participation throughout the project.

2. The PHA will monitor the ratio of apprentices to employees pursuant to regulations of the Secretary of Labor, and may establish ratios of apprentices to employees based upon usual local employment practices for occupations which do not have ratios established by the Secretary of Labor.

H. GOOD FAITH EFFORT

In order to demonstrate that good faith effort has been made after the contractor uses all of the PHA resident applicants, to employ low-income residents, each contractor or subcontractor shall set forth evidence that it has:

1. Attempted to recruit from the “Section 3” area the necessary number of low-income and very low-income residents through:
 - a. Local media advertising.
 - b. Signs placed at the proposed site for the project, and community organizations public or private institutions within or serving the project area, such as the State Employment Service offices, Local Business offices, etc.
2. Maintained a list of all low-income area residents who have applied, either on their own or on referral from any source, and employ such person if otherwise eligible and if a trainee vacancy exists.
3. Show evidence that it has not filled vacant employment positions in its organization immediately prior to undertaking work, in an attempt to circumvent “Section 3” regulations.
4. Reviewed and determined if low-income and very low-income residents meets minimum hiring qualifications. Such applicants meeting such minimum qualifications, but not hired due to lack of vacancies or for other operational reasons, will be placed on a priority hiring list and offered positions upon the occurrence of the first available appropriate vacancy.

I. UTILIZATION OF LOW- AND VERY LOW-INCOME AREA RESIDENTS AS EMPLOYEES

To ensure that each contractor or subcontractor undertaking work in connection with a “Section 3” covered project fulfills his obligations to utilize low-income and very low-income project area residents as employees to the greatest extent feasible, the PHA will require that each contractor or subcontractor:

1. Identify the number of positions (vacant and occupied) in the various occupational categories including skilled, semi-skilled and unskilled labor, needed to perform each phase of the “Section 3” covered project.
2. Identify the position in paragraph “A” above, and the number of positions in the various occupational categories which are currently occupied by

regular permanent employees.

3. Identify the positions in paragraph “A” above, and the number of positions in the various occupational categories which are not currently occupied by regular permanent employees.
4. Establish the positions identified in paragraph “C” above, and set a goal which is consistent within each occupational category, of the number of positions to be filled by low-income and very low-income residents of the “Section 3” project area.
5. Make a good faith effort to fill all of the positions identified in paragraph “D” with low-income and very low-income project area residents.

J. UTILIZATION OF BUSINESS LOCATED IN OR OWNED IN SUBSTANTIAL PART BY PERSONS RESIDING IN THE AREA

Each contractor or subcontractor undertaking work on a “Section 3” covered project shall assure that to the greatest extent feasible, contracts for work to be performed in connection with the project area are awarded to business concerns located within the “Section 3” covered project area or business concerns owned in substantial part (at least 51%) by persons residing in the “Section 3” covered area by submitting an “Assurance of Compliance” to the PHA prior to contract award.

K. GRIEVANCE AND COMPLIANCE

1. The contractor or subcontractor must understand that any low-income and very low-income resident of the project area, for himself/herself or as a representative of persons similarly situated, seeking employment or job training opportunities in the project area, or any eligible business concerns seeking contract opportunities, may file a grievance if a good faith effort was not followed.
2. A grievance must be filed with HUD not later than ninety (90) calendar days from the date of the action (or omission) upon which the grievance is based.

L. RECORD KEEPING

The PHA will require the contractor and subcontractor to maintain all records related to employment and job training of low-income and very low-income residents and to supply the PHA with such records upon request. There is also a bi-weekly and monthly report that is needed as part of the submission. Other such records may include copies of advertisements placed in local media, brochures or publications, assurances of compliance from subcontractors and other materials.

SECTION 3 CLAUSE

- A. The work to be performed under this contract is on a project 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 housing 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 implements 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 applicable provision of the subcontract or in this Section 3 Clause, upon a finding that the subcontractor is in violation of 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 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 subcontractor'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 contract.

- G. 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 derogations compliance with section 7(b).

Project Number

Project Name

CONTRACTOR'S SECTION 3 PLAN

Submitted to:

Lubbock Housing Authority

Submitted by:

General Contractor

Date

Section 3 Action Plan

The Contractor is required to submit a Section 3 Action Plan. The following template may be used or the Contractor may use its own format. The plan must include at a minimum:

- Identification of the Project Area
- Specific Information about the current workforce
- Specific plan for hiring Section 3 eligible residents
- Specific plan for engaging Section 3 designated business concerns
- Firm commitment to include as part of all bids the Section 3 Plan) which identifies activities to comply with the Section 3 Program and the Housing Authority's Section 3 Clause in all sub-contracts
- Firm commitment to conduct aggressive outreach and notification to potential Section 3 residents and businesses of hiring opportunities using site signage, flyers, etc.
- Firm commitment to provide identified area employment agencies of jobs available from the established job pool of Section 3 area residents.

After reviewing the specifications and work write-up, we anticipate utilizing the workforce listed in the table below.

SECTION 3 EMPLOYMENT PLAN

Employment & Training Opportunity Worksheet

| Name of Company | Prime Contractor or Sub-Contractor | # of *Core Employees | Proposed # of New Hires | Proposed # of New Hires that are Section 3 Eligible | Proposed % of New Hires that are Section 3 Eligible |
|-----------------|------------------------------------|----------------------|-------------------------|---|---|
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SECTION 3 BUSINESS CONCERN UTILIZATION PLAN

List all anticipated Section 3 Business Concerns that will be utilized for this Project

| Company Name | Company Contact | Service Provided | Date of Contract | % of contract | \$ of contract |
|--------------|-----------------|------------------|------------------|---------------|----------------|
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The bidder represents and certifies as part of its bid/offer that it:

- Is a Section 3 Business concern.** A Section 3 Business concern means a business concern:
 1. That is 51% or more owned by Section 3 Resident(s); or
 2. 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
 3. 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 1 or 2 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.

WE WILL UTILIZE THE FOLLOWING IN AN EFFORT TO AWARD SUBCONTRACTOR ACTIVITIES 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 the common areas of the applicable development(s) owned and managed by the Housing Authority.
- By providing written notice to all known Section 3 business concerns of 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.
- Where appropriate, by breaking out contract work into economically feasible units to facilitate participation by Section 3 businesses
- By developing and using a list of eligible Section 3 business concerns
- By actively supporting and undertaking joint ventures with Section 3 businesses

**WE WILL UTILIZE THE FOLLOWING IN AN EFFORT 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 contacting 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.

The following reports will be completed and submitted to the Lubbock Housing Authority at the completion of each contract and prior to LHA issuing final payment to the contractor. A Contractor's Section 3 Compliance Report will be submitted for each sub-contractor.

Contractor's Section 3 Compliance Report

For Months of: _____

Prime Contractor: _____

Contract No: _____

Reporting Quarter: _____

Sub-Contractor: _____

Sub-Contractor ID No: _____

Prime Contractor ID No: _____

Address: _____

Contractor Start Date: _____

Date of Report: _____

Contract Completion Date: _____

Contract Amount: _____

Telephone No: _____

Contact Person: _____

Type of Service: _____

Methods undertaken to achieve the employment objectives of Section 3 Compliance

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| (A) Job Category | (B) No. of New Hires Total No. of Hours that are New Hires | | (C) No. of New Hires that are Section 3 Residents Total No. of Hours that are Section 3 Residents | | (D) No. of Section 3 Employees and Trainees Total No. of Hours that are Section 3 Employees and Trainees | |
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Certified this _____ day of _____

By: _____

Totals for This Reporting Period

Totals from Contract Start to Date

| | | | | | |
|--|--|--|--|--|--|
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Total No. of all Employees at the beginning of this Contract _____

Total No. of all Employees for this reporting Quarter _____

Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 USC 1701u, mandates that the Department ensure that employment and other economic activities generated by its housing and community development assistance programs are directed toward Low and very low-income persons, particularly those who are recipients of government assistance for housing. The regulations are found at 24 CFR Part 135. The information will be used by the Department to monitor program recipients' compliance with Section 3. to assess the results of the Department's efforts to meet the statutory objectives of Section 3. to prepare reports to HUDm and by recipients as a self-monitoring tool.

Contractor's Section 3 Compliance Report - Instructions

- 1) Check-mark the applicable box to indicate if you are a Contractor or Sub-contractor.
- 2) Enter the business name of the Prime Contractor or Sub-Contractor who is reporting Section 3 compliance activity.
- 3) Enter the business address of the Prime Contractor or Sub-Contractor who is reporting Section 3 compliance activity.
- 4) Enter the Area code and telephone number of the Prime Contractor or Sub-Contractor who is reporting Section 3 compliance activity.
- 5) Enter the Contract Number issued by LHA for the award in which you are contracting or subcontracting.
- 6) If you are a sub-contractor, enter your Federal identification number.
- 7) Enter the date in mm/dd/yyyy format for which this contract started.
- 8) Enter the date in mm/dd/yyyy format for which this contract ends.
- 9) Enter the name of the person with knowledge of the award and the recipients implementation of Section 3.
- 10) Enter the months in which you are reporting Section 3 compliance activity.
- 11) Enter the reporting quarter in which you are reporting Section 3 compliance activity. The Quarters for which we reference by HUD standards are as follows — (1st qtr. Oct, Nov, Dec) (2nd qtr. Jan, Feb, Mar) (3rd qtr. Apr, May, Jun) (4th qtr. Jul, Aug, Sep).
- 12) Enter the Federal Identification of the Prime Contractor of which this contract was awarded.
- 13) Enter the date in mm/dd/yyyy format that you are submitting the Contractor's Section 3 Compliance Report.
- 14) Enter the total dollar amount, rounded to the nearest dollar received by the recipient under this contract.
- 15) Enter the type of service you are providing; e.g., construction, non-construction, secretarial, carpentry, painting, electrical, masonry, etc.
- 16) Identify efforts made to direct the employment and other economic opportunities achieved toward low and very low income persons, particularly those who are recipients of government assistance for housing.
- 17) Enter the job category skill for work performed; e.g., professional, secretarial, carpentry, painting, electrical, masonry, etc. Professionals are defined as people who have special knowledge of an occupation (e.g., supervisors, architects, surveyors, planners, and computer programmers). For Construction positions, list each trade and provide data in columns B,C,D for each trade where persons were employed.
- 18) Enter the number of new hires and the total amount of hours accumulated under the contract for which you are reporting this period for the stated job category. New hires refers to a person who is not on the contractor's or recipients payroll for employment at the time of selection for the Section 3 covered award.
- 19) Enter the number of new hires that were Section 3 residents and the total amount of hours accumulated under the contract for which you are reporting this period for the stated job category. Section 3 new hires refers to a Section 3 resident who is not on the contractor's or recipient's payroll for employment at the time of selection for the Section 3 covered award.
- 20) Enter the number of Section 3 residents that were employed and trained and the total amount of hours accumulated under this contract for the stated job category.
- 21) Sign and date that you certify the information you are providing is accurate and true.
- 22) Forward original report form to the Prime Contractor. The Prime Contractor shall forward the report to the LHA Procurement Officer.

Contractor's Section 3 Compliance Report

Prime Contractor: _____
 Sub-Contractor: _____
1 _____
 Address: _____

 Telephone No: _____
4 _____

Contract No: _____
5 _____
 Sub-Contractor ID No: _____
6 _____
 Contractor Start Date: _____
7 _____
 Contract Completion Date: _____
8 _____
 Contact Person: _____
9 _____

For Months of: _____
10 _____
 Reporting Quarter: _____
11 _____
 Prime Contractor ID No: _____
12 _____
 Date of Report: _____
13 _____
 Contract Amount: _____
14 _____
 Type of Service: _____
15 _____

Methods undertaken to achieve the employment objectives of Section 3 Compliance

| | (A) | (B) | | (C) | | (D) | |
|-----------------------------------|-----------------|------------------|---------------------------------------|---|---|---|--|
| | Job Category | No. of New Hires | Total No. of Hours that are New Hires | No. of New Hires that are Section 3 Residents | Total No. of Hours that are Section 3 Residents | No. of Section 3 Employees and Trainees | Total No. of Hours that are Section 3 Employees and Trainees |
| 16 _____ | 17 _____ | 18 _____ | 19 _____ | 20 _____ | 20 _____ | 20 _____ | 20 _____ |
| SAMPLE FORM.....DO NOT USE | | | | | | | |

Certified this _____ day of _____
 By: _____
21 _____

| | | | | | | | |
|---|--|--|--|--|--|--|--|
| Totals for This Reporting Period | | | | | | | |
| Totals from Contract Start to Date | | | | | | | |

Total No. of all Employees at the beginning of this Contract _____

Total No. of all Employees for this reporting Quarter _____

Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 USC 1701u, mandates that the Department ensure that employment and other economic activities generated by its housing and community development assistance programs are directed toward Low and very low-income persons, particularly those who are recipients of government assistance for housing. The regulations are found at 24 CFR Part 1.35. The information will be used by the Department to monitor program recipients' compliance with Section 3. to assess the results of the Department's efforts to meet the statutory objectives of Section 3. to prepare reports to HUDm and by recipients as a self-monitoring tool.

Prime Contractor: Complete lines 1-15 for your company and all sub-contractors. Use additional pages if necessary

Contract & Subcontract Activity Reporting Qtr. _____ Contract No. _____ Prime Contractor ID No. _____
 Date Submitted _____ Award Amount: _____

| Grantee/Project Owner/Developer/Sponsor/Builder/Agency | | | Location (City, State, Zip Code) | | | Amount of Contractor or Sub-Contractor | Type of trade Code (See Below) | Sub-contractor Business Racial/Ethnic Code (See Below) | Women Owned Businesses (Yes or No) | Sub-Contractor Identification ID Number | Section 3 Business (Yes or No) |
|--|------|------------------------------------|----------------------------------|-------|----------|--|--------------------------------|--|------------------------------------|---|--------------------------------|
| Name of Contact Person | | Phone Number (Including Area Code) | Reporting Period | | | | | | | | |
| Name of Contact Person | | Phone Number (including Area Code) | Reporting Period | | | | | | | | |
| | Name | Street Address | City | State | Zip Code | A | B | C | D | E | F |
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Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u., mandates that the Department ensure that employment and other economic activities generated by its housing and community development assistance programs are directed toward Low and very-low income persons, particularly those who are recipients of government assistance for housing. The regulations are found at 24 CFR Part 135. The information will be used by the Department to monitor program recipients' compliance with Section 3, to assess the results of the Department's efforts to meet the statutory objectives of Section 3, to prepare reports to HUD, and by recipients as a self-monitoring tool.

- B: Type of Trade Codes**
- 1= New Construction 6=Professional
- 2= Substantial Rehab 7= Tenant
- 3= Repair 8= Education/Training
- 4= Service 9= Arc/Engrg Appraisal
- 5= Project Mangt 0= Other

- C: Racial/Ethnic Codes:**
- 1= White Americans
- 2= Black Americans
- 3= Native Americans
- 4= Hispanic Americans
- 5= Asian/Pacific Americans
- 6= Hasidic Jews

Certified this _____ day of _____
 By: _____

6

The Contractor or Sub-contractor will utilize the following forms to determine if an employment Applicant or Business concern is eligible for Section 3 preferences.

APPLICANT "SECTION 3" CERTIFICATION FORM

Name: _____

Legal Address: _____

City: _____ State: _____ Zip: _____

Phone: _____ or fax: _____

Position Applied For: _____

(All applicants are required to complete and sign this form.)

In general, Section 3 gives applicants whose household income in the past year was less than 80% of the area median income a preference in the hiring process so long as they are qualified for the position for which they are applying.

Only those applicants who complete the disclosure and meet the Section 3 requirements will be eligible for the preference, HOWEVER, employment offer for applicants claiming a Section 3 preference will be conditional upon providing proof of eligibility at the time of hire.

CAUTION: Any applicant falsely claiming a Section 3 preference will immediately be removed from consideration of employment.

___ Option 1: I choose not to disclose this information and understand that I will not be granted a Section 3 preference in the hiring process

OR

___ Option 2: I choose to disclose the following information to determine if I am eligible for a Section 3 preference (complete questions below)

1. Are you a resident of public housing or Section 8? (Check One) ___ Yes ___ No
2. The number of persons in my household is _____
3. From the chart below, locate the number of persons in your household and enter the dollar amount from that box here _____

| # of persons in Household | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
|---------------------------|----------|----------|----------|----------|----------|----------|----------|---------|
| 80% Area Median Income | \$29,600 | \$33,850 | \$38,050 | \$42,300 | \$45,700 | \$49,050 | \$52,450 | %55,850 |

Section 3 Eligibility Test

___ Yes ___ No My household income last year was equal to or less than the amount listed on Line 3 above?

___ Yes ___ No My legal address is within the Lubbock City Limits

If the answer to both questions is yes, you are entitled to a Section 3 Preference.

By signing, I certify that all of the information given above is true and accurate and that if found to be inaccurate, I understand that I may be disqualified as an applicant and/or a certified Section 3 resident and may be grounds for termination of any employment or contract that resulted from this application and/or certification.

Signature _____ DATE: _____

Section 3 Action Plan

SECTION 3 PLAN Statement of Commitment

Project Number

Project Name

Submitted by:

By signature below, I am hereby acknowledging to the LHA that I have been duly provided with information regarding the LHA's Section 3 Program which explains the obligations and requirements of any construction project which is funded in part or whole by HUD sourced funds. I certify that I am fully empowered to enter into this Statement of Section 3 Utilization Commitment on behalf of this company. I am certifying that the information contained within this Section 3 Utilization Plan is accurate and correct and that I understand that the LHA may impose penalties and sanctions for the submission of any false and inaccurate statements within this document.

Date

Title

Company Name

Company Address

Section 3 Action Plan