



RFP 21-08

Request for Proposal:  
Consulting Services: HABD's  
Voice of the Constituents  
(VOC) Services

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Housing Authority of the  
Birmingham District

The Housing Authority of the Birmingham District  
(HABD) is seeking proposals for Consulting Services:  
HABD's Voice of the Constituents (VOC) Services.

**Issue Date: April 5, 2021**

**Time: 9:00 a.m. CST**

**Submission Deadline: May 6, 2021**

**Time: 2:00 p.m. CST**

Contracting Officer:

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**David A. Northern, Sr.**  
**President and Chief Executive Officer**

**DATE** April 5, 2021

**TO:** Prospective Offerors

**REQUEST FOR PROPOSAL:** 21-08

**SEPARATE SEALED PROPOSALS FOR:** Consulting Services: HABD's Voice of the Constituents (VOC) Services

**PROPOSALS WILL BE RECEIVED AT:** HABD Central Office  
Director of Procurement  
1826 Third Avenue South  
Birmingham, AL 35233-1905

**CLOSING DATE:** May 3, 2021

**TIME:** 2:00 P.M. CST

**LOCATION:** HABD Central Office  
Director of Procurement  
1826 Third Avenue South  
Birmingham, AL 35233-1905

By submission of a proposal the offeror agrees, if the offeror's proposal is accepted, to enter into a contract with the Housing Authority of the Birmingham District (HABD), to complete all work as specified or indicated in the contract documents, for the contract price and within the contract time indicated in the RFP. The offeror further accepts the terms and conditions of the RFP.

Proposals must be prepared in accordance with the section entitled "Submittal of Proposal," and will be evaluated by the HABD. Evaluation will be based on the criteria within this RFP.

Copies of the RFP, which includes the scope of services, conditions and requirements, may be obtained from the HABD Procurement Office located at the address listed above. Persons who require special accommodations should immediately contact the HABD Procurement Office at (205) 521-0611.

The HABD reserves the right to accept or reject any or all proposals, or any proposal, and to waive any informalities or irregularities.

The HABD in accordance with the Executive Orders 11625 and 12138 promotes participation by businesses owned and operated by disadvantaged and historically underutilized businesses. Section 3 business requirements must also be met.

A copy of this solicitation is available at [www.habd.org](http://www.habd.org) under the Procurement Section. Questions regarding the attached RFP should be directed to the Director of Procurement, in writing ten (10) days prior to proposal due date. Questions received after the deadline will not be answered.

# HOUSING AUTHORITY OF THE BIRMINGHAM DISTRICT

## Consulting Services: HABD's Voice of the Constituents (VOC) Services

Documents (in the order of the RFP package)		MUST be submitted with quote.
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B.	PROFILE OF FIRM FORM (submission required)	REQUIRED
C.	NON-COLLUSIVE AFFIDAVIT (submission required)	REQUIRED
D.	HABD CERTIFICATION OF NON-DISCRIMINATION (Submission Required)	REQUIRED
E.	SECTION 3 CLAUSE ACKNOWLEDGEMENT	REQUIRED
F.	FORM HUD 5369-B <i>Instructions to Offerors Non-Construction</i>	For Informational Purposes Only (Will apply to actual bids)

<b>ATTACHEMENTS G - O (FORMS/DOCUMENTS)</b>		
G.	FORM HUD-5369-C <i>Certifications, Representations of Offerors Non-Constructions Contract</i> (submission required)	REQUIRED
H.	FORM HUD 5370-C GENERAL CONDITIONS FOR NON-CONSTRUCTION	For Informational Purposes Only (Will apply to actual bids)
I.	FORM HUD 92010 <i>Equal Employment Opportunity Certification</i> (submission required)	REQUIRED
J.	FORM HUD 50070 <i>Certification of a Drug-Free Work Place</i> (submission required)	REQUIRED
K.	HUD 2992 CERTIFICATION REGARDING DEBARMENT AND SUSPENSION (submission required)	REQUIRED
L.	E-VERIFY FORM – <i>Contractor's Affidavit</i> (submission required)	REQUIRED
M.	SAMPLE FORM OF AGREEMENT	For Informational Purposes Only (Will apply to actual bids)
N.	HUD 50071 CERTIFICATION OF PAYMENT TO INFLUENCE FEDERAL TRANSACTIONS (submission required)	REQUIRED
O.	CONFLICT OF INTEREST DISCLOSURE FORM	REQUIRED



## REQUEST FOR PROPOSAL

### I. INTRODUCTION

The Housing Authority of the Birmingham District (HABD) is seeking proposals from qualified consultants/firms to facilitate the HABD's Voice of the Constituents Services. HABD is looking for a consulting firm that can offer the most advantageous balance of price, quality, and performance for the consulting services requested.

A copy of this solicitation may be obtained at [www.habd.org](http://www.habd.org) in the Purchasing/Procurement Section or at [https://ha.economicengine.com/requests.html?company\\_id=9565i](https://ha.economicengine.com/requests.html?company_id=9565i) in the Housing Agency Marketplace.

The Housing Authority of the Birmingham District (HABD) is a very large Public Housing Agency with approximately (4446) conventional public housing units located at fourteen (14) sites within the Birmingham Contractor limits. The HABD additionally administers a Section 8 program which consists of approximately (5241) units.

The HABD was incorporated in 1935 and in 1937 began participation under the provisions of the United States Housing Act of 1937. The HABD is governed by a (5) member Board of Commissioners. The Mayor of the Contractor of Birmingham appoints members of the governing board for staggered terms; they, in turn, elect a Chairperson and Vice Chairperson. The Board members also appoint a President/CEO to administer the affairs of the Authority.

HABD is soliciting proposals from qualified, licensed and insured entities to provide the above noted services. Your response to the Scope of Work must be complete, as it will become part of any contractual agreement. We appreciate the investment of time and resources firms are making by participating in this process. All submitted proposals shall be evaluated for responsiveness to the requirements of the Request for Proposal ("RFP"). Those bids not in accordance with the RFP shall be deemed non-responsive and eliminated from further evaluation.

HABD reserves the right to award contracts to multiple contractors after receipt and evaluation of proposals received. In the event a contract is awarded to more than one contractor, the HABD reserves the right to issue selected services to various contractors based on the HABD's best interest.

### II. RFP INFORMATION AT A GLANCE

HABD CONTACT PERSON	Carl M. Edwards Phone: 205-521-0611 Fax: 205-521-7704 Email: cedwards@habd.net
HOW TO OBTAIN THE RFP DOCUMENTS	Available on April 5, 2021 at 9:00 a.m. CST Housing Authority of the Birmingham District 1826 Third Avenue South, Birmingham, AL 35233
HOW TO OBTAIN THE RFP DOCUMENTS ON THE WEBSITE	Access: <a href="http://www.habd.org">www.habd.org</a> Click on the "Procurement" Link or at <a href="https://ha.economicengine.com/requests.html?company_id=9565i">https://ha.economicengine.com/requests.html?company_id=9565i</a>
DESCRIPTION OF SERVICES	Housing Authority of the Birmingham District is seeking proposals from professional, qualified agencies to provide Consulting Services: HABD's Voice of the Constituents Services
PROPOSAL SUBMITTAL RETURN & DEADLINE	May, 3, 2021 at 2:00 p.m. CST Housing Authority of the Birmingham District 1826 Third Avenue South Birmingham, AL 35233 *(The "hard copy" bid must be received in hand and time stamped by HABD by no later than 2:00 p.m. CST on this date).
ANTICIPATED APPROVAL BY HABD BOARD OF COMMISSIONER:	TBD



Please note that all proposals will be retained by HABD for audit purposes. HABD reserves the right to reject any and/or all proposals, or to waive any informality in the proposals. Submissions received after the deadline will not be considered. An Offeror submitting a late proposal will be so notified. All material submitted in the proposal becomes the property of HABD and will not be returned.

**Deadline for Written Questions:** All questions pertaining to this Request for Proposals must be submitted in writing no later than ten (10) days prior to submission deadline. Written questions may be submitted by email, to the Director of Procurement, Mr. Carl M. Edwards, at [cedwards@habd.net](mailto:cedwards@habd.net) fax to (205) 521-7704. HABD will only respond to written questions and only be bound by its response to written questions. Oral communications are discouraged, and HABD **will not** be bound by any oral answers or interpretations of the Request for Proposals.

In order to maintain a fair and impartial competitive process, HABD can answer questions only in response to written questions received within the specified time frame. HABD must avoid private communication with the prospective proposers during the evaluation period. The written questions will be the only opportunity for proposers to ask questions as to form and content. The addendum will be available on HABD's website at [www.habd.org](http://www.habd.org)

**Please respect this policy and do not attempt to query HABD personnel or members of its Board of Commissioners regarding this RFP except through written questions submitted in the manner and within the time frame indicated above.**

### III. HABD'S RESERVATION OF RIGHTS:

- HABD reserves the right to reject any or all proposals, to waive any informality in the RFP process, or to terminate the RFP process at any time, if deemed by HABD to be in its best interests.
- HABD reserves the right not to award a contract pursuant to this RFP, to award by individual service, group of services, or as a total, whichever is deemed most advantageous to HABD.
- HABD reserves the right to terminate a contract awarded pursuant to this RFP, at any time for its convenience upon 30 days' written notice to the successful proposer(s).
- HABD reserves the right to determine the days, hours and locations that the successful proposer(s) shall provide the services called for in this RFP.
- HABD reserves the right to retain all proposals submitted and not permit withdrawal for a period of ninety (90) days subsequent to the deadline for receiving proposals without the written consent of the HABD Contracting Officer (CO).
- HABD reserves the right to negotiate the fees proposed by the proposer entity.
- HABD reserves the right to reject and not consider any proposal that does not meet the requirements of this RFP, including, but not necessarily limited to, incomplete proposals and/or proposals offering alternate or non-requested services.
- HABD shall have no obligation to compensate any proposer for any costs incurred in responding to this RFP.
- HABD shall reserve the right to at any time during the RFP or contract process to prohibit any further participation by a proposer or reject any proposal submitted that does not conform to any of the requirements detailed herein.



**IV. PROPOSAL SCHEDULE**

Activity	Date
Release RFP	Week of April 5, 2021
Deadline for submission of questions	April 23, 2021
<b>Deadline for submission of proposals</b>	May 3, 2021
Evaluation of proposals and selection process	May 6, 2021
*Interview finalists (if applicable)	May 13, 2021
Negotiations	May 13, 2021
Award of contract	TBD

\*All firms must set aside these dates for potential interviews if short-listed. Due to the short timeline to award a contract, only these dates and times will be made available for interviews.

**V. OVERVIEW:**

It is critical for the President/CEO to understand the needs of the employees, of the residents and of the community. is requesting listening sessions to be held with the various constituents. There are a variety of constituents to include in the Voice of the Constituents process to ensure the broadest audiences’ perspectives are captured.

HABD will hear the voice of the client and community as it relates to the services it provides as well as desired services. Both obstacles and solutions will be discussed. It will provide HABD leadership with necessary information that can be incorporated into the strategic plan. Understanding the needs of those that are served and need to be served will allow the organization to be more focused on the appropriate priorities and budgetary requirements.

As the leader of the organization, it is critical for the President/CEO to quickly connect with the staff. The voice of the employee process will jump start assimilation for both he and the team. They will begin to understand his mode of operation, expectations and vision through this process. He will begin to learn more about them as well as potential obstacles they face and proposed solutions for moving forward.

As the VOC process is expanded to include higher educational institutions, critical business entities and key leaders across the state; HABD, the participating organizations and the President/CEO will glean the strengths of each. This will become the foundation to build collaborative programs to more effectively and efficiently provide for the needs of those served. It will leverage current programs and become a think tank for future opportunities. It is a desire of the leadership at HABD to play an integral role in this endeavor.

**VI. SCOPE OF SERVICES:**

A. To achieve desired outcomes, the Voice of the Constituents process will be a multiphase process throughout 2021. Inclusivity and diversity will be critical to the process in gleaning the major themes and perspectives from the various stakeholders. A multi-pronged approach will assist in reaching a broader audience. Not only could there be various modes for collecting the desired information (i.e. survey and focus groups), there also will be a variety of facilitation tools available to ensure participation. Different brainstorming tools such as nominal group technique or affinity will be used to ensure participation from all session members. Analysis will be completed, action plans established and a communication plan established. Without action and follow-up, the sessions would be merely “hearing” sessions with no apparent “listening” transpired. The scope of services will be **tasked based** on the following components:

- Develop strategies, techniques and timelines to conduct the Voice of the Constituents (VOC) multiphase process as a tool for new leader assimilation.

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- Include various modes for collecting the desired information (i.e., survey and focus groups), and a variety of facilitation tools to ensure participation. Brainstorming tools such as nominal group technique or affinity are used to ensure participation from all session members.
- Conduct listening sessions with a variety of constituents to understand the needs of the employees, of the residents, of stakeholders and of the community. Include a variety of constituents in the VOC process to ensure the broadest audiences' perspectives are captured.
- Compile data and develop list of obstacles and solutions that will be discussed with HABD leadership and lead to opportunities, which will provide necessary information that can be incorporated into the strategic plan.
- Expand the VOC process to include higher educational institutions, critical business entities and key leaders across the state, in order for HABD, the participating organizations and the President/CEO to glean the strengths of each to build collaborative programs to more effectively and efficiently fulfill the needs of clients.
- Action and follow up: Complete analysis, action plans and communication plans upon conclusion of listening sessions and focus group based on the feedback received.

B. Consultants are required to:

- To create a timeline for the multiphase process involved necessary to gather information for the VOC.
- Determine the costs per each session with constituents and the group size (based on COVID-19 pandemic).
- Discern the appropriate outreach method with constituents during the ongoing COVID-19 pandemic.
- Development of a detailed timeline for the multiphase process. The timeline should outline an anticipated schedule with target dates and deadlines in order to ensure the services are complete in 2021.

**VII. PROPOSAL FORMAT**

HABD intends to retain the successful proposer pursuant to a "Best Value" basis, not a "Low Proposal" basis ("Best Value," in that HABD will, as detailed below consider factors other than just cost in making the award decision). Therefore, so that HABD can properly evaluate the offers received, all proposals submitted in response to this RFP must be formatted in accordance with the sequence noted below. Each category must be separated by numbered index dividers (which number extends so that each tab can be located without opening the proposal) and labeled with the corresponding tab reference also noted below. None of the proposed services may conflict with any requirement HABD has published herein or has issued by addendum.

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A. **Tabbed Proposal Submittal**

Tab No.	Description
1	<p><b>Proposed Services:</b> As more fully detailed within <i>Scope of Work / Technical Specifications</i>, of this document, the proposer shall, at a minimum, clearly detail within the information submitted under this tab documentation providing:</p> <ul style="list-style-type: none"> <li>• <b>Letter of Intent</b>-Provide a cover letter transmitting the response, introducing the respondent's company and expressing interest in providing services to HABD.</li> <li>• <b>Service Approach</b>-Provide an overview of the approach the respondent intends to take in completing the Scope of Services.</li> </ul>
2	<p><b>Plan and Approach:</b> <i>Evaluation Factor No. 1</i>, Degree to which proposer demonstrates an effective use of resources and demonstrated creativity in developing a feasible plan. Demonstrated successful past performance in providing similar services for government, non-profit and for-profit entities. Evidence to support feasibility/likelihood of proposer's approach in developing a plan for approval by stakeholders.</p>
3	<p><b>Experience Working with Public Housing Authorities:</b> <i>Evaluation Factor No. 2</i>, herein, the proposers demonstrate familiarity with public housing requirements, including procurement rules and regulations. Evidence of experience and capacity of proposer to develop and implement proposed plan and approach.</p>
4	<p><b>Fee Proposal:</b> <i>Evaluation Factor No. 3</i>, herein the proposers demonstrate the degree to which the authority resources are leveraged and maximized in development of implementation plan.</p>
5	<p><b>M/WBE and Section 3 Participation:</b> <i>Evaluation Factor No. 4</i>, herein, the proposer demonstrates the degree to which the Developer demonstrates experience in, and an effective approach to, compliance with Section 3 requirements and M/WBE participation.</p>
6	<p><b>Quality and Responsiveness of Proposal:</b> <i>Evaluation Factor No. 5</i>, herein, the proposer will demonstrate the following:</p> <ul style="list-style-type: none"> <li>• Meets minimum published requirements</li> <li>• Extent to which proposal is easy to read, thorough and professional</li> <li>• Demonstrated quality of the proposer's technical response and vision</li> </ul>
7	<p><b>Managerial Capacity/Financial Viability:</b> The proposer must submit under this tab a concise description of its managerial and financial capacity to deliver the proposed services, including brief professional resumes for the persons identified within areas (5) and (6) of the <i>Profile of Firm Form</i>. Such information shall include the proposer's qualifications to provide the services; a description of the background, and current organization of the entity.</p>
8	<p><b>Client Information/References:</b> The past performance of the respondent on prior work of the same or similar nature, based on the letters of reference and/or client lists submitted, and based upon the results of any consultation that the HABD chooses to conduct with such. Proposer shall submit a listing of former or current clients, including any other Public Housing Authority for whom the proposer has performed similar or like services to those being proposed in the RFP. The listing shall at a minimum include:</p> <ul style="list-style-type: none"> <li>• Client's name</li> <li>• Client's contact name</li> <li>• Client's telephone number</li> </ul> <p>A brief description and scope of the service(s) and the dates the service(s) were provided.</p>

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9	<p><b>Certification Forms and Affidavits:</b> These forms are attached and are part of the RFP documents. These forms must be fully completed, executed, and submitted under this tab as part of the proposal submittal.</p> <ul style="list-style-type: none"> <li>• <b>Profile of Firm Form</b> (<i>Attachment B</i>)</li> <li>• <b>Non-Collusive Affidavit</b> (<i>Attachment C</i>)</li> <li>• <b>HABD Certification of Non-Discrimination</b> (<i>Attachment D</i>)</li> <li>• <b>Section 3 Acknowledgement</b> (<i>Attachment E</i>)</li> <li>• <b>Section 3 Business Concern Self-Certification Form</b> (<i>Attachment F</i>)</li> <li>• <b>Section 3 Assurance of Compliance and Action Plan Form</b> (<i>Attachment G</i>)</li> <li>• <b>Form HUD-5369-C</b> Certifications and Representations of Offerors, Non-Construction Contract (<i>Attachment I</i>)</li> <li>• <b>Form HUD-92010</b> Equal Employment Opportunity Certification (<i>Attachment K</i>)</li> <li>• <b>Form HUD-50070</b> Certification of a Drug-Free Workplace (<i>Attachment L</i>)</li> <li>• <b>Form 2992 Certification Regarding Debarment and Suspension</b> (<i>Attachment M</i>)</li> <li>• <b>E-Verify Form</b> (<i>Attachment N</i>)</li> <li>• <b>HUD 50071</b> Certification of Payment to Influence Federal Transactions (<i>Attachment P</i>)</li> <li>• <b>Conflict of Interest Disclosure Form</b> (<i>Attachment Q</i>)</li> </ul>
10	<p><b>Section 3 Utilization Plan:</b> HABD works diligently to comply with the requirements of the Contractor of Housing and Urban Development's (HUD) Section 3 regulation (24 CFR Part 135). Consistent with 24 CFR Part 135, as a recipient of HUD funding, HABD requires fulfillment of Section 3 obligations on all contracts that make use of that assistance. These policies are implemented regardless of the contract amount or whether it is designated as construction. HABD works to ensure the provision of employment, training, contracting, and other economic opportunities to its residents and other low-income persons. In doing so, the HABD utilizes Section 3 as a means of promoting its mission of offering supportive services that foster stability and self-sufficiency. HABD will provide a listing of qualified Section 3 Businesses upon request.</p> <p><b><u>SECTION 3 UTILIZATION PLAN: Failure to provide the Section 3 Assurance of Compliance and Action Plan may cause the response to be non-responsive. Responding proposals should demonstrate compliance with the "greatest extent feasible."</u></b></p>
11	<p><b>Section 3 Business Concern Preference: (if applicable):</b> For any proposer claiming a Section 3 Business Preference, he/she shall under this tab include the fully completed and signed Section 3 Business Concern Self- Certification Form.</p>
12	<p><b>Other information (optional):</b> Include any other information which may be helpful to the Evaluation Committee in evaluating your firm's qualifications, including peer reviews within the past three years and any disciplinary action received within the past three years. Also, describe any regulatory action taken by any oversight body against the organization.</p>

If **no information** is to be placed under any of the above noted tabs please place thereunder a statement such as "NO INFORMATION IS BEING PLACED UNDER THIS TAB" or "THIS TAB LEFT INTENTIONALLY BLANK." **DO NOT** eliminate any of the tabs.

**B. Proposal Submittal Binding Method:**

It is preferable and recommended that the proposer bind the submittals in such a manner that HABD can, if needed, remove the binding (i.e... "comb-type;" etc.) or remove the pages from the cover (i.e. 3-ring binder; etc.) to make copies then conveniently return the bid submittal to its original condition.

**VIII. SUBMISSION REQUIREMENT**

**A. Proposal Submission:**

All quotes must be submitted and time-stamped received in the designated HABD's office by no later than the submittal deadline stated herein (or within any ensuing addendum). **One (1) electronic, one (1) original and five (5) copies of the proposal must be submitted.** The proposal must be submitted to conform to the requirements of this Request for Proposals as described in the sections entitled "Evaluation Factors. The package exterior must clearly be marked **RFP 21-08 Consulting Services: HABD's Voice of the Constituents** and must be sealed having the proposer's name, return address and addressed to:

Housing Authority Birmingham District  
Director of Procurement  
1826 Third Avenue South  
Birmingham, Alabama 35233

*Proposals received after the published deadline will not be accepted.*

**a. Submission Conditions:** DO NOT FOLD OR MAKE ANY ADDITIONAL MARKS, NOTATIONS OR REQUIREMENTS ON THE DOCUMENTS TO BE SUBMITTED! Firms are not allowed to change any requirements or forms contained herein, either by making or entering onto these documents or the documents submitted any revisions or additions; and if any such additional marks, notations or requirements are entered on any of the documents that are submitted to HABD by the proposer, such may invalidate that proposal. If, after accepting such a proposal, HABD decides that any such entry has not changed the intent of the quote that HABD intended to receive, HABD may accept the proposal and the proposal shall be considered by HABD as if those additional marks, notations or requirements were not entered on such.

**b. Submission Responsibilities:** It shall be the responsibility of each firm to be aware of and to abide by all dates, times, conditions, requirements and specifications set forth within all applicable documents issued by HABD, including the RFP document, and the documents listed within the RFP, and any addenda and required attachments submitted by the proposer. **Price Schedule should be submitted in a separately sealed envelope along with the proposal.** By virtue of completing, signing and submitting the completed documents, the proposer is stating his/her agreement to comply with the all conditions and requirements set forth within those documents. Written notice from the proposer not authorized in writing by the Contracting Officer to exclude any of HABD requirements contained within the documents may cause that proposer to not be considered for award.

**B. Proposer's Responsibilities Contact with HABD:**

It is the responsibility of the proposer to address all communication and correspondence pertaining to this RFP to the Procurement Manager only. Proposers must not make inquiry or communicate with any other HABD staff member or official (including members of the Board of Commissioners) pertaining to this RFP. Failure to abide by this requirement may be cause for HABD to not consider a bid submittal received from any proposer who may have not abided by this directive.

**a. Addendums:** All questions and requests for information must be addressed in writing to the Procurement Manager. The Procurement Manager will respond to all such inquiries in writing by addendum to all prospective proposers (i.e. firms or individuals that have obtained the RFP Documents). During the RFP solicitation process, the Procurement Manager will NOT conduct any *ex parte* (a substantive conversation—"substantive" meaning, when decisions pertaining to the RFP are made between HABD and a prospective proposer when other prospective proposers are not present) conversations that may give one prospective proposer an advantage over other prospective proposers. This does not mean that prospective proposers may not call the Procurement Manager it simply means that, other than making replies to direct the prospective proposer where his/her

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answer has already been issued within the solicitation documents, the Procurement Manager may not respond to the prospective proposer's inquiries but will direct him/her to submit such inquiry in writing so that the Procurement Manager may more fairly respond to all prospective proposers in writing by addendum.

**C. Recap of Attachments:**

It is the responsibility of each proposer to verify that he/she has obtained/reviewed for submission the following attachments pertaining to this RFP, which are hereby included as a part of this RFP:

Attachment	Attachment Description
	This RFP Document
A	Cost Proposal Form
B	Profile of Firm Form (submission required)
C	Non-Collusive Affidavit (submission required)
D	HABD Certification of Non-Discrimination (submission required)
E	Section 3 Clause Acknowledgement
F	Section 3 Business Concern Self-Certification (submission required)
G	Section 3 Assurance of Compliance and Action Plan (submission required)
H	Form HUD-5369-B <i>Instructions to Offerors Non-Construction</i>
I	Form HUD-5369-C (01/31/2014), <i>Certifications and Representations of Offerors Non-Construction Contract</i>
J	Form HUD-5370-C General Conditions for Non-Construction Contracts
K	Form HUD 92010 <i>Equal Employment Opportunity Certification</i> (submission required)
L	Form HUD 50070 <i>Certification of a Drug-Free Work Place</i> (submission required)
M	Form 2992 <i>Certification Regarding Debarment and Suspension</i> (submission required)
N	E-Verify Form – <i>Contractor's Affidavit</i> (submission required)
O	Sample Form of Contract
P	HUD 50071 Certification of Payment to Influence Federal Transactions
Q	Conflict of Interest Disclosure Form

**IX. PROPOSAL EVALUATION:**

**A. Evaluation Factors:** The following factors will be utilized by HABD to evaluate each proposal received; award of points for each listed factor will be based upon the documentation that the proposer submits within his/her proposal:

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NO.	MAX POINT VALUE		FACTOR TYPE	FACTOR DESCRIPTION
1	50 points	<b>Plan and Approach</b>	Subjective	<ul style="list-style-type: none"> <li>Degree to which proposer demonstrates an effective use of resources and demonstrated creativity in developing a feasible plan.</li> <li>Demonstrated successful past performance in providing similar services for government, non-profit and for-profit entities.</li> <li>Evidence to support feasibility/likelihood of proposer's approach in developing a plan for approval by stakeholders.</li> </ul>
2	25 points	<b>Experience working with Public Housing Authorities</b>	Objective (Technical)	<ul style="list-style-type: none"> <li>Demonstrated familiarity with public housing requirements, including governing rules and regulations.</li> <li>Evidence of experience and capacity of proposer to develop and implement proposed plan and approach.</li> </ul>
3	15 points	<b>Fee Proposal</b>	Subjective (Technical)	Degree to which authority resources are leveraged and maximized in development of a strategic/business plan.
4	5 points	<b>M/WBE and Section 3 Participation</b>	Subjective	Degree to which the firm/individual demonstrates experience in, and an effective approach to, compliance with Section 3 requirements and M/WBE participation
5	5 points	<b>Quality and Responsiveness of Proposal</b>	Subjective (Technical)	<ul style="list-style-type: none"> <li>Meets minimum published requirements</li> <li>Extent to which proposal is easy to read, thorough and professional</li> <li>Demonstrated quality of the proposer's technical response and vision</li> </ul>
	<b>100 points</b>		<b>100 points</b>	<b>Total Possible Points</b>

**Preference Evaluation Factor:** The following factors will be utilized by the Procurement Officer to evaluate each proposal submittal received. For any proposer claiming a Section 3 Business Preference, he/she must include a fully completed and signed Section 3 Business Preference Certification Form (attached).

NO.	MAX POINT VALUE	FACTOR TYPE	FACTOR DESCRIPTION
7		<b>Objective</b>	<b>For business claiming status as a Section 3 resident-owned Enterprise:</b> A firm may qualify for Section 3 status as detailed within Attachment F.
8	10 points		<b>For business claiming Section 3 status, claiming at least 30% of their workforce are currently Section 3 residents or were Section 3-eligible residents within 3 years of date of first employment with the business.</b> A firm may qualify for Section 3 status as detailed within Attachment F.
9	05 points		<b>For business claiming Section 3 status by subcontracting 25% of the dollars awarded to qualified Section 3 business.</b> A firm may qualify for Section 3 status as detailed within the preference form attached.
	<b>115 Points</b>		<b>Total Possible Points</b>

The following factors will be utilized by the Director of Procurement to evaluate each proposal received. HABD may not necessarily proceed with an award based on the initial proposals received and reserves the right to discuss contents of such proposals, to obtain additional information.

**B. Evaluation Method:**

1. **Initial Evaluation for Responsiveness:** Each proposal received will first be evaluated for responsiveness (e.g., meets the minimum of the published requirements). HABD reserves the right to reject any proposals deemed by HABD not minimally responsive (HABD will notify such firms in writing of any such rejection).
  
2. **Evaluation Packet for Proposals Deemed Responsive:** Internally, an evaluation packet will be prepared for each evaluator, including the following documents:
  - Instructions to Evaluators;
  - Proposal Tabulation Form;
  - Written Narrative Justification Form for each proposer;
  - Recap of each proposer's responsiveness;
  - Copy of all pertinent RFP documents.
  
3. **Evaluation Committee:** HABD anticipates that it will select a minimum of a three-person committee to evaluate each of the responsive "hard copy" proposals submitted in response to this RFP. PLEASE NOTE: No proposer shall be informed at any time during or after the RFP process as to the identity of any evaluation committee member. If, by chance, a proposer does become aware of the identity of such person(s), he/she SHALL NOT make any attempt to contact or discuss with such person anything related to this RFP. The Procurement Office is the only person at HABD that the proposers shall contact pertaining to this RFP. Failure to abide by this requirement may (and most likely will) cause such proposer(s) to be eliminated from consideration for award.
  
4. **Evaluation:** The appointed evaluation committee, independent of the Procurement Manager or any other person at HABD, shall evaluate the responsive proposals submitted and award points pertaining to Evaluation "Subjective" Factor(s). Upon final completion of the proposal evaluation process, the evaluation committee will forward the completed evaluations to the Procurement Manager.
  
5. **Potential "Competitive Range" or "Best and Finals" Negotiations:** HABD reserves the right to, as detailed within Section 7.2.N through Section 7.2.R of HUD Procurement Handbook 7460.8 REV 2, conduct a "Best and Finals" Negotiation, which may include oral interviews, with all firms deemed to be in the competitive range. Any firm deemed not to be in the competitive range shall be notified of such in writing by the HABD in a timely manner.
  
6. **Determination of Top-ranked Proposer:** Typically, the points awarded by the evaluation committee will be used to determine the final rankings, which is typically forwarded by the Procurement Manager to the President/CEO for approval. If the evaluation was performed to the satisfaction of the President/CEO, the final rankings may be forwarded to HABD Board of Commissioners at a scheduled meeting for approval.
  - a) **Minimum Evaluation Results:** To be considered to receive an award a proposer must receive a total calculated average in the competitive range.
  
  - b) **Ties:** In the case of a tie in points awarded and fee for service, the award shall be decided as detailed within Section 6.12.C of HUD Procurement Handbook 7460.8 REV 2, by "drawing lots or other random means of selection."

7. **Notice of Results of Evaluation:** If an award is completed, all proposers will receive by letter/e-mail a Notice of Results of Evaluation. Such notice shall inform all proposers of:
  - Which proposer received the award;
  - Each proposer's right to a debriefing and to protest.
  
8. **Restrictions:** All persons having familial (including in-laws) and/or employment relationships (past or current) with principals and/or employees of a proposer entity will be excluded from participation on the HABD evaluation committee. Similarly, all persons having ownership interest in and/or contract with a proposer entity will be excluded from participation on the HABD evaluation committee.

**X. CONTRACT AWARD:**

1. **Contract Award Procedure:** If a contract is awarded pursuant to this RFP, the following detailed procedures will be followed:
  - a) By executing the HABD Form of Contract, (Sample Contract Attached), the proposer is thereby agreeing to abide by all terms and conditions pertaining to this RFP as issued by HABD.
  
2. **Contract Conditions:** The following provisions are considered mandatory conditions of any contract award made by HABD pursuant to this RFP:
  - a) **Contract Form:** HABD will not execute a contract on the successful proposer's form, contracts will only be executed on HABD's form (please see Sample Contract, Attached), and by submitting a proposal the successful proposer agrees to do so (Please note that HABD reserves the right to amend this form as HABD deems necessary.) However, HABD will during the RFP process (prior to the submittal deadline) consider any contract clauses that the proposer wishes to include therein and submits in writing a request for HABD to do so; but the failure of HABD to include such clauses does not give the successful proposer the right to refuse to execute HABD's contract form. It is the responsibility of each prospective proposer to notify HABD, in writing, prior to submitting a proposal, of any contract clause that he/she is not willing to include in the final executed contract and abide by. HABD will consider and respond to such written correspondence, and if the prospective proposer is not willing to abide by HABD's response (decision), then that prospective proposer shall be deemed ineligible to submit a proposal.
  
  - b) **Assignment of Personnel:** HABD shall retain the right to demand and receive a change in personnel assigned to the work if HABD believes that such change is in the best interest of HABD and the completion of the contracted work.
  
  - c) **Unauthorized Sub-Contracting Prohibited:** The successful proposer shall not assign any right, nor delegate any duty for the work proposed pursuant to this RFP (including, but not limited to, selling or transferring the contract) without the prior written consent of the CO. Any purported assignment of interest or delegation of duty, without the prior written consent of the CO shall be void and may result in the cancellation of the contract with HABD, or may result in the full or partial forfeiture of funds paid to the successful proposer as a result of the proposed contract; either as determined by the CO.

3. **Contract Period:** The term of this Agreement shall be for a period of two (2) years. The HABD shall have the option to renew this contract upon the same terms and conditions for four successive periods of twelve (12) months. This contract award with extensions may not exceed five (5) years, after five (5) years the contract must be re-bid. The Contract Administrator will prepare a recommendation to be submitted sixty (60) days prior to the contract expiring to the President/CEO for review and consideration as to whether the time extension will be granted within the five (5) year timeframe. If the time extension is authorized by the President/ CEO the contract will be modified in writing; this is expected to be completed in advance of the time for termination of the contract. The written modification to the contract will be signed by the President/ CEO and delivered by HABD to the Counsel to become an amendment to the original contract. If the time extension is not authorized, the Contract Administrator will communicate the disapproval in writing to the Counsel prior to the date for the contract to end, subject to adequate time being available within HABD regular business hours”.
4. **Licensing and Insurance Requirements:** Prior to award (but not as a part of the proposal submission) the *successful proposer* will be required to provide (*NOTE Each of the following insurance coverage shall cover both the Contractor and the temporary employee*):
- a) **Workers Compensation Insurance.** An original certificate evidencing the proposer's current industrial (worker's compensation) insurance carrier and coverage minimum of \$500,000 each occurrence;
  - b) **General Liability Insurance.** An original certificate evidencing General Liability coverage, if awarded a contract the contractor will agree to name HABD as an additional insured on all commercial or comprehensive general liability policies for the duration of the contract. The policy will contain a (minimum of \$1,000,000 each occurrence, general aggregate minimum limit of \$2,000,000, together with damage to premises and fire damage of \$1,000,000 and medical expenses any one person of \$50,000), with a commercially reasonable deductible (e.g. “commercially reasonable,” meaning at least 1% of the “general aggregate minimum” of the policy, with a maximum deductible amount of \$50,000. Additionally, contractor shall state that a thirty-day notice of prior cancellation or change will be provided to HABD.
  - c) **Automobile Insurance.** An original certificate showing the proposer's automobile insurance coverage in a combined single limit of \$1,000,000. For every vehicle utilized during the term of this program, when not owned by the entity, each vehicle must have evidence of automobile insurance coverage with limits of no less than \$100,000/\$300,000 and medical pay of \$5,000.
  - d) **Contractor/County/State Business License.** If applicable, a copy of the proposer's plumber license, business license allowing that entity to provide such services within the City of Birmingham, Alabama, the County of Jefferson, and/or the State of Alabama.
  - e) **Wage Determination.** Attention is called to the fact that not less than the minimum salaries and wages must be paid on all services performed in connection with this contract and that the Contractor must ensure that employees and applicants are not discriminated against because of their race, color, religion, sex, national origin or handicapped status.



5. **Right to Negotiate Final Fees:** HABD shall retain the right to negotiate the amount of fees that are paid to the successful proposer, meaning the fees proposed by the top-rated proposer may, at HABD's options, be the basis for the beginning of negotiations. Such negotiations shall begin after HABD has chosen a top-rated proposer. If such negotiations are not, in the opinion of the President/CEO successfully concluded within 5 business days, HABD shall retain the right to end such negotiations and begin negotiations with the next-rated proposer. HABD shall also retain the right to negotiate with and make an award to more than one proposer, as long as such negotiation(s) award(s) are addressed in the above manner (i.e., top-rated first, then next-rated following, until a successful negotiation is reached).
6. **Contract Service Standards:** All work performed pursuant to this RFP must conform and comply with all applicable local, state and federal codes, statutes, laws and regulations.

## **XI. GENERAL**

1. **Equal Opportunity Requirements.** Each firm or individual shall certify compliance with all applicable equal opportunity requirements governing contracts of the type. Bids must include signed HABD Certification of Non-Discrimination.
2. **Resident Participation.** HABD encourages the hiring of residents by the Contractor for any employment opportunities available as a result of its contracts. The Contractor will be asked to make every effort to hire residents and to provide job opportunities in the communities where the work is to be performed. The Contractor will be asked to report the hiring of any residents to assist HABD in monitoring resident participation in the performance of work under its contracts, progress toward achieving established goals and in the development of future resident participation programs.
3. **Beason-Hammon Act/E-Verify.** As a condition for the award of any contract, grant, or incentive by the state, any political subdivision thereof, or any state-funded entity to a business entity or employer that employs one or more employees, the business entity or employer shall not knowingly employ, hire for employment, or continue to employ an unauthorized alien and shall attest to such, by sworn affidavit signed before a notary
4. **Section 3-HUD Act of 1968, 24 CFR 135.** 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. The awarded Contractor agrees 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. Contractors are requested to submit their Section 3 Statement attached in the bid package and agree to participation in this HUD required program.
4. **Arbitration:** Any dispute, claim or controversy arising out of or relating to this RFP, shall be settled by binding arbitration in Birmingham, Alabama, administered by the National Arbitration Forum (NAF) under its Code of Procedure, currently in effect, and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. There shall be one arbitrator, named in accordance with the procedure. The parties are waiving their right to seek remedies in court, including the right to jury trial. The arbitration will be conducted

6. in accordance with the Federal Arbitration Act (FAA).  
**Executive Order:** HABD in accordance with the Executive Orders 11625 and 12138 encourages participation by businesses owned and operated by minorities and women and Section 3 Business Concerns. It is the policy of HABD to use best good faith efforts, consistent with applicable federal regulations and executive orders, to fully promote participation and utilization of disadvantaged and historically underutilized businesses in all areas of Authority contracting. Bidders and offerors are expected to demonstrate diligence to achieve participation and utilization. HABD has established an administrative goal of 20% utilization of disadvantaged and historically underutilized businesses for performance of the work under this procurement.

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## Attachment A

### COST PROPOSAL FORM

RFP 21-08

Consulting Services: Voice of the Constituents

(Return with Proposal-page 1 of 2)

\_\_\_\_\_ shall provide the services as detailed in the attached  
(Company Name)

proposal for Consulting Services, subject to the term, scope of services and general conditions set forth in the Request for Proposal, for a total of:

Title/Position	Billing Hourly Rate	Travel, Per Diem	Other Expenses
	\$		
	\$		
	\$		
	\$		
	\$		

**(Note): Offeror shall break down all elements of cost in such a manner that HABD will have an opportunity to fully understand the make-up of the proposed rate/dollar amount.**

#### Proposer's Initials:

- \_\_\_\_\_ 1. Firm has read and understand the documents, and firm's proposal made in accordance therewith;
- \_\_\_\_\_ 2. Firm has reviewed the RFP for Consulting Services prepared by HABD and understands that it will apply to this project and his/her proposal is made in accordance therewith;
- \_\_\_\_\_ 4. Firm has included in the RFP the cost of all labor, material and items required for the proper execution and completion of the work;
- \_\_\_\_\_ 5. Firm's proposal is based upon the materials, system and equipment required by the RFP documents without exception;
- \_\_\_\_\_ 6. Firm is licensed and qualified under the laws of the State of Alabama to perform the quantity and type of work shown on the RFP and Contact documents if applicable;
- \_\_\_\_\_ 7. Firm has reviewed the HABD policy on Section 3 compliance provided. All Proposer's will be required to meet the HABD minimum required for Section 3, non-compliance is not an option.

Proposer acknowledges receipt of the following addenda:

No. \_\_\_\_\_, dated \_\_\_\_\_ No. \_\_\_\_\_, dated \_\_\_\_\_

Housing Authority of the Birmingham District  
Consulting Services: HABD's Voice of the Constituents (VOC) Services  
RFP No. 21-08

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**Page 2 of 2**

No. \_\_\_\_, dated \_\_\_\_\_ No. \_\_\_\_, dated \_\_\_\_\_

No. \_\_\_\_, dated \_\_\_\_\_ No. \_\_\_\_, dated \_\_\_\_\_

**The Undersigned Proposer Agrees to the following:**

1. The proposal will not be modified, withdrawn or canceled during the period following the time and date designated for the receipt of proposal until the Contract Award is announced.
2. Proposer will be required to hold given prices for a period up to ninety (90) days until the owner issues a Notice to Proceed.
3. Proposer understands that the HABD reserves the right to reject any or all proposals and waive any informalities or irregularities in the bid or in the bidding.

Contractor \_\_\_\_\_  
Business Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
Proposer's Signature \_\_\_\_\_ Date \_\_\_\_\_  
Title \_\_\_\_\_

If firm is a corporation, set forth the legal name of the corporation together with the signature of the officer or officers authorized to sign contracts on behalf of the corporation.

---

If firm is a partnership, set forth the name of the firm together with the signature of the partner or partner authorized to sign contracts on behalf of the partnership.



**Attachment B**

**PROFILE OF FIRM FORM**

# HOUSING AUTHORITY BIRMINGHAM DISTRICT

<b>PROFILE OF FIRM FORM (Page 1 of 2)</b>
---

- (1) Prime \_\_\_\_\_ Joint Venture/Partner \_\_\_\_\_ Sub-contractor \_\_\_\_\_ (This form shall be completed by and for each).
- (2) Name of Firm: \_\_\_\_\_ Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_
- (3) Street Address, City, State, Zip: \_\_\_\_\_
- (4) Identify Principals/Partners in Firm

NAME	TITLE	% OF OWNERSHIP

(5) Please indicate the operating structure of your company.

- Publicly Held Corporation  
  Privately Held Corporation  
  Government Agency  
  Non-Profit Organization  
  Partnership  
  Sole Proprietorship

(6) Bidder's Diversity Statement: You must check all of the following that apply to the ownership of this firm and enter where provided the correct percentage (%) of ownership of each:

Minority (MBE), or Woman-Owned (WBE) Business Enterprises qualify by virtue of 51% or more ownership and active management by one or more of the following:

- African American \_\_\_\_\_%  
  \*\*Native American \_\_\_\_\_%  
  Hispanic American \_\_\_\_\_%  
  Asian/Pacific American \_\_\_\_\_%  
  Hasidic Jew \_\_\_\_\_%  
  Asian/Indian American \_\_\_\_\_%
- Woman-Owned (MBE) \_\_\_\_\_%  
  Woman-Owned (Caucasian) \_\_\_\_\_%  
  Disabled Veteran \_\_\_\_\_%  
  Caucasian American (Male) \_\_\_\_\_%  
  Other (Specify): \_\_\_\_\_%

(7) Is the business 51% or more owned by a public housing resident? \_\_\_ Yes \_\_\_ No. If yes, provide name and address of the public housing facility:

Facility Name: \_\_\_\_\_

Facility Address: \_\_\_\_\_ City: \_\_\_\_\_

SWMBE Certification Number: \_\_\_\_\_

Certification Agency: \_\_\_\_\_

(NOTE: A CERTIFICATION/NUMBER IS NOT REQUIRED – ENTER IF AVAILABLE)

(8) Federal Tax ID Number: \_\_\_\_\_

(9) City of Birmingham License No.: \_\_\_\_\_

# HOUSING AUTHORITY BIRMINGHAM DISTRICT

## PROFILE OF FIRM FORM (Page 2 of 2)

(10) State of Alabama License No.: \_\_\_\_\_

(11) Has your firm or any member of your firm been a party to litigation with a public entity? If yes, when with whom and state the circumstances and any resolution.

\_\_\_\_\_  
\_\_\_\_\_

(12) Has your firm or any member of your firm ever sued or been sued by the Housing Authority of the Birmingham District or its affiliated entities? If yes, when and state the circumstances and any resolution of the lawsuit.

\_\_\_\_\_  
\_\_\_\_\_

(13) Has your firm or any member of your firm ever had a claim brought against because of breach of contract or nonperformance? If yes, when and state the circumstances and any resolution of the matter.

\_\_\_\_\_  
\_\_\_\_\_

(14) Debarred Statement: Has this firm or any principal(s) ever been debarred from providing any services by the federal Government, any state government, the State of Alabama, or any local government agency within or without the State of Alabama? Yes  No

Initials \_\_\_\_\_

(15) Disclosure Statement: Does this firm or any principal(s) thereof have any current, past, personal or professional relationship with any Commissioner or Officer of the HABD? Yes  No

If yes, please list the individual(s) and their relationship: \_\_\_\_\_ Initials \_\_\_\_\_

(16) Non-Collusive Affidavit: The undersigned party submitting this proposal hereby certifies that such bid is genuine and not collusive and that said Offerer has not colluded, conspired, connived or agreed, directly or indirectly, with any Offerer 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 or affiant or of any advantage against the HABD or any person interested in the proposed contract; and that all statements in said proposal are true. (See Attachment....)

(17) Verification Statement: The undersigned Offerer hereby states that by completing and submitting this form he/she is verifying that all information provided herein is, to the best of his/her knowledge, true and accurate, and agrees that if the HABD discovers that any information entered herein is false, that shall entitle the HABD to not consider nor make award or to cancel any award with the undersigned party.

(18) In performing this contract, the contractor(s) shall comply with any and all applicable federal, state or local laws including but not limited to: Occupational Safety & Health, Equal Employment Opportunity, Immigration and Naturalization, The Americans with Disabilities Act, State Tax and Insurance Law, and the Fair Housing Act.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Company

## Attachment C

### NON-COLLUSIVE AFFIDAVIT

(Prime Proposer)

State of \_\_\_\_\_

County of \_\_\_\_\_

\_\_\_\_\_, being first duly sworn, deposed and says that he/she is a partner or officer of the firm of, \_\_\_\_\_ the party making the foregoing proposal or bid, that such proposal or bid is genuine and not collusive or sham; that said bidder has not colluded, conspired, connived or agreed, directly or indirectly, with any bidder or person, to put in a sham bid or to refrain from bidding, and has not in any manner, directly or indirectly, sought, by agreement or collusion, or communication or conference, with any person to fix the bid price of affiant or any other bidder, or to fix overhead, profit or cost element of said price, or that of any other bidder, or to secure any advantage against the Housing Authority of the Birmingham District, of any personal interest in the proposed contract; and, that all statements in said proposal or bid are true.

Signed: \_\_\_\_\_  
(Proposer, if the is an individual;  
Partner, if the proposer is a partnership;  
Officer, if the proposer is a corporation)

Subscribed and sworn to before me this  
day of \_\_\_\_\_, 202\_.

My commission expires \_\_\_\_\_, 202\_.



## Attachment D

### HABD CERTIFICATION OF NON-DISCRIMINATION

The offeror/bidder agrees and warrants that in the performance of the contract, if awarded, such contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of race, color, gender, religion, creed, age, familial status, national origin, veteran status, or disability. The supplier further agrees to take affirmative action to ensure that applicants with job-related qualifications are employed and that employees are treated when employed without regard to their race, color, gender, religion, creed, age, familial status, national origin, veteran status, or disability. It is understood that non-discrimination shall include all forms of harassment and specifically sexual harassment. The contractor hereby certifies the foregoing and that the contractor will adhere to and enforce all applicable federal, state and local laws pertaining to non-discrimination.

Authorized Signature:

For: \_\_\_\_\_  
Company Name

By: \_\_\_\_\_

Date: \_\_\_\_\_



## **Attachment E**

### **SECTION 3 CLAUSE ACKNOWLEDGEMENT**

## SECTION 3 CLAUSE ACKNOWLEDGEMENT

### **Economic Opportunities for Low- and Very Low-Income Persons (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 Section 3 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.

I have read and understand these requirements of this Section 3 funded project:

Business Name: \_\_\_\_\_

Business Address: \_\_\_\_\_

Print Name: \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**Attachment F**

**HUD-5369-B  
INSTRUCTIONS TO OFFERORS NON-CONSTRUCTION**



# 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:]



**Attachment G**

**HUD-5369-C  
CERTIFICATIONS AND REPRESENTATIONS OF OFFERORS  
NON-CONSTRUCTION CONTRACT**

# Certifications and Representations of Offerors

## Non-Construction Contract

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

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

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

### 1. Contingent Fee Representation and Agreement

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

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

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

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

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

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

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

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

(Check the block applicable to you)

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

### 3. Certificate of Independent Price Determination

(a) The bidder/offeror certifies that—

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

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

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

- 
- (iii) As an agent, has not personally participated, and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above.
- (c) If the bidder/offeror deletes or modifies subparagraph (a)2 above, the bidder/offeror must furnish with its bid/offer a signed statement setting forth in detail the circumstances of the disclosure.

#### 4. Organizational Conflicts of Interest Certification

- (a) The Contractor warrants that to the best of its knowledge and belief and except as otherwise disclosed, it does not have any organizational conflict of interest which is defined as a situation in which the nature of work under a proposed contract and a prospective contractor's organizational, financial, contractual or other interest are such that:
- (i) Award of the contract may result in an unfair competitive advantage;
  - (ii) The Contractor's objectivity in performing the contract work may be impaired; or
  - (iii) That the Contractor has disclosed all relevant information and requested the HA to make a determination with respect to this Contract.
- (b) The Contractor agrees that if after award he or she discovers an organizational conflict of interest with respect to this contract, he or she shall make an immediate and full disclosure in writing to the HA which shall include a description of the action which the Contractor has taken or intends to eliminate or neutralize the conflict. The HA may, however, terminate the Contract for the convenience of HA if it would be in the best interest of HA.
- (c) In the event the Contractor was aware of an organizational conflict of interest before the award of this Contract and intentionally did not disclose the conflict to the HA, the HA may terminate the Contract for default.
- (d) The Contractor shall require a disclosure or representation from subcontractors and consultants who may be in a position to influence the advice or assistance rendered to the HA and shall include any necessary provisions to eliminate or neutralize conflicts of interest in consultant agreements or subcontracts involving performance or work under this Contract.

#### 5. Authorized Negotiators (RFPs only)

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

#### 6. Conflict of Interest

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

#### 7. Offeror's Signature

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

---

Signature & Date:

---

Typed or Printed Name:

---

Title:

---



## **Attachment H**

### **HUD 5370-C GENERAL CONSDITIONS FOR NON-CONSTRUCTION CONTRACTS**

# 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.



- (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.



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## 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 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



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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.

**Attachment I**

**HUD 92010**

**EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION**

**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.



**Attachment J**

**HUD 50070**

**CERTIFICATION OF A DRUG-FREE WORK PLACE**

# Certification for a Drug-Free Workplace

U.S. Department of Housing and Urban Development

Applicant Name

Program/Activity Receiving Federal Grant Funding

Acting on behalf of the above named Applicant as its Authorized Official, I make the following certifications and agreements to the Department of Housing and Urban Development (HUD) regarding the sites listed below:

I certify that the above named Applicant will or will continue to provide a drug-free workplace by:

a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Applicant's workplace and specifying the actions that will be taken against employees for violation of such prohibition.

b. Establishing an on-going drug-free awareness program to inform employees ---

- (1) The dangers of drug abuse in the workplace;
- (2) The Applicant's policy of maintaining a drug-free workplace;
- (3) Any available drug counseling, rehabilitation, and employee assistance programs; and
- (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.

c. Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph a.;

d. Notifying the employee in the statement required by paragraph a. that, as a condition of employment under the grant, the employee will ---

- (1) Abide by the terms of the statement; and
- (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

e. Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph d.(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

f. Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph d.(2), with respect to any employee who is so convicted ---

- (1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
- (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

g. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs a. thru f.

**2. Sites for Work Performance.** The Applicant shall list (on separate pages) the site(s) for the performance of work done in connection with the HUD funding of the program/activity shown above: Place of Performance shall include the street address, city, county, State, and zip code. Identify each sheet with the Applicant name and address and the program/activity receiving grant funding.)

Check here  if there are workplaces on file that are not identified on the attached sheets.

I hereby certify that all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate.  
**Warning:** HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties.  
(18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

Name of Authorized Official	Title
Signature	Date
X	

## **Attachment K**

### **HUD 2992 CERTIFICATION REGARDING DEBARMENT AND SUSPENSION**



# Certification Regarding Debarment and Suspension

U.S. Department of Housing  
and Urban Development

## Certification A: Certification Regarding Debarment, Suspension, and Other Responsibility Matters - Primary Covered Transactions

1. The prospective primary participant certifies to the best of its knowledge and belief that its principals;

a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal debarment or agency;

b. Have not within a three-year period preceding this proposal, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;

c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

d. Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

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

### Instructions for Certification (A)

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

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

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

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

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

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

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

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

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

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

**Certification B: Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions**

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

**Instructions for Certification (B)**

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms **covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded**, as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of these regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph (5) of these instructions, if a participant in a lower covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies including suspension and/or debarment.

Applicant		Date
Signature of Authorized Certifying Official		Title

## **Attachment L**

### **E-VERIFY FORM**



**E-VERIFY**

**CONTRACTOR AFFIDAVIT**

By executing this affidavit, the undersigned contractor verifies its compliance with E-Verify, stating affirmatively that the individuals, firms or corporations which is engaged in the physical performance of service on behalf of HABD has registered with, is authorized to use and uses the federal work authorization program commonly known as E-Verify, or any subsequent replacement program, in accordance with the applicable provisions and deadlines established with E-Verify. Furthermore, the undersigned contractor will continue to use the federal work authorization program throughout the contract period and the undersigned contractor will contract for the physical performance of services in satisfaction of such contract only with subcontractors who present an affidavit to the contractor with the information required by E-Verify. Contractor hereby attest that its federal work authorization used identification number and date of authorization are as follows:

\_\_\_\_\_  
Federal Work Authorization User Identification Number: \_\_\_\_\_

Date of Authorization: \_\_\_\_\_

Name of Contractor: \_\_\_\_\_

I hereby declare under penalty of perjury that the foregoing is true and correct.

Executed on \_\_\_\_\_, 20\_\_\_\_ in \_\_\_\_\_ (city),  
\_\_\_\_\_ (state)

\_\_\_\_\_  
Signature of Authorized Officer or Agent

\_\_\_\_\_  
Printed Name and Title of Authorized Officer or Agent

**SUBSCRIBED AND SWORN BEFORE ME**

**ON THIS THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_\_.**

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires:

**Attachment M**

**SAMPLE FORM OF CONTRACT**

**AGREEMENT FOR SERVICES**  
(Contractors Legal Name)

This Agreement (*Agreement*) is made this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_ between the **Housing Authority of the Birmingham District (HABD)**, a public housing agency with its principal office located at 1826 Third Avenue, South, Birmingham Alabama 35233 and **Contractors Legal Name (Contractor)** located at 0000 Lake Drive, Birmingham, Alabama 35200.

**WHEREAS**, the HABD has determined the need to contract for on-call Services for all HABD complexes and offices as needed; and

**WHEREAS**, Contractor has submitted a \_\_\_\_\_ that substantially conforms to the specifications for providing the services;

**THEREFORE**, in consideration of the mutual covenants herein provided, the parties do hereby agree to the terms and conditions as follows:

**1. SCOPE OF SERVICES**

1.1 The Contractor shall provide services as the Contractor for all HABD Management Offices, Central Office and Housing Communities where services are requested.

1.2 The Contractor's compensation will cover all labor, equipment, tools, supervision, and other items necessary to perform these services excluding materials.

1.3 The Contractor shall provide a written report upon completion of all maintenance indicating the services performed and readings taken, along with notation of any special concerns that warrant further attention. All service shall be performed in compliance with applicable Federal, State and Local laws and regulation.

1.4 The Contractor shall provide services consistent with \_\_\_\_\_ No. 00-00 labeled as **Exhibit A**, attached hereto and incorporated herein by referenced as though fully set forth.

**2. COMPENSATION**

2.1 The Contractor shall be compensated in an amount of \_\_\_\_\_ (**\$000.00**) for the services encompassed by this Agreement. The Contractor acknowledges, understands and agrees that this is a fixed price Agreement, not subject to alterations or modification of the cost of the work specified. The contract amount stated herein is inclusive of all work, expenses, travel, labor, equipment, tools, services, transportation, water, lights, heat, power, security, and supervision used in the performance of the work specified. Further, the hourly rate includes all fringe benefits, profit, overhead, general and administrative costs.

2.2 The Contractor shall submit for payment itemized invoices for hourly compensation and cost of materials to the HABD Contract Administrator, subject to documentation and verification of work performed and materials used, and approval of payment by the Contracting Officer (Executive Director) if applicable. All approved invoices will be paid within 30 days. Invoices not received within sixty (60) days of work order completion will not be paid. The Contract Administrator is defined as the HABD representative designated to oversee implementation of the Agreement on behalf of the HABD. The Contract Administrator for this Agreement will be the Director of Facilities or successor thereof, and the Co-Administrators are the Property Managers or successor thereof, of the individual housing communities or as otherwise designated in writing by the Contracting Officer



for this Agreement. The Director of Finance and Accounting, successor thereof, shall give authorization for disbursement of payments for properly completed requests for payments. **Any insufficient documentation shall be returned to the Contractor and must be resubmitted to HABD with any and all additional information as requested by HABD.**

**3. TERM OF AGREEMENT**

3.1 The term of this Agreement shall be for a period of \_\_\_ months beginning on the \_\_\_ day of \_\_\_\_\_ 20\_\_ and ending on the \_\_\_ day of \_\_\_\_\_ 20\_\_ . The Contract will not bind, nor purport to bind HABD to any obligations the Contractor may have made with any of its suppliers; vendors or subcontractors in relation to a contract awarded hereunder which exceeds the termination date of the Contract between HABD and Contractor. At HABD’s option, this agreement may be extended for up to two (2) one-year extensions.

**4. NON - RECOURSE**

4.1 No member, official, employee, agent or consultant of the HABD shall be personally liable to, the Contractor, or any successor in interest or person claiming by, through or under the Contractor, in the event of any default or breach, for or on account of any amount which may be or become due, or in any claim, cause or obligation whatsoever under the terms of this Agreement.

**5. ASSIGNMENT - SUBCONTRACTING - TRANSFER**

5.1 The HABD encourages the participation of disadvantaged and historically underutilized businesses and HABD residents in the performance of contractual services, where such services may be subcontracted. In the event the Contractor determines such subcontracts are needed, the Contractor will make good faith affirmative efforts to utilize businesses owned by HABD residents, disadvantaged and historically underutilized businesses in the performance of the work under this contract.

5.2 The Contractor shall not enter into any subcontract with any contractor who has been temporarily denied participation in any Housing and Urban Development (HUD) program or who has been disbarred by any agency of the United States Government or the State of Alabama from performing the work specified.

5.3 In the event the Contractor will use subcontractors in the performance of the services under this Agreement, the Contractor will submit a list of all prospective subcontractors to the HABD prior to the commencement of the work. The HABD may disapprove the use of any subcontractor for cause (including its convenience) stated to the Contractor. The HABD's approval, disapproval, or election not to disapprove does not create an assumption of liability for acts or omissions of the Contractor or subcontractor. The provisions of this Agreement shall not create a contractual relationship between HABD and any subcontractor, the Contractor hereby acknowledging that HABD specifically disclaims any such contractual relationship.

5.4 The Contractor shall not assign or transfer any interest in this contract; except that claims for monies due or to become due from the HABD 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 HABD in writing.

**6. DISCRIMINATION PROHIBITED**



6.1 The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, age, gender, disability, Vietnam or other veteran status, or national origin. The Contractor acknowledges, understands and agrees that this prohibition shall include all forms of harassment, including sexual harassment of residents or employees of HABD. The Contractor shall certify and maintain compliance with Executive Order 11246, The Rehabilitation Act of 1973, and The Vietnam Era Veterans' Readjustment Assistance Act.

6.2 The Contractor further agrees not to discriminate against any subcontractor on the basis of race, gender, disability, color, religion, age, Vietnam or other veteran status, and shall, consistent with applicable federal law, take affirmative steps toward utilizing such services.

**7. CONFLICT OF INTEREST**

7.1 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 that may arise therefrom. Further, no member, officer, or employee of the HABD, no member of the governing body of the locality in which HABD was activated, and no other public official of such locality who exercises any functions or responsibilities with respect to the HABD, shall, within her or his tenure, or for one year thereafter, have any interest, direct or indirect, in this contract or the proceeds thereof.

7.2 The Contractor covenants that neither it nor any of its directors, officers, partners, associates or employees has any interest, nor shall acquire any interest, directly or indirectly, which would conflict in any manner or degree with the performance of services hereunder. The Contractor further covenants that in the performance of this Agreement, no person having such interest shall be employed by it in relation to the performance of the services that are the subject of this Agreement or in any conflict of interest matter with HABD. Violation of this provision may result in immediate termination of any and all contracts with the Contractor.

**8. GRATUITIES-KICKBACKS**

8.1 The HABD's officers, employees or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors or parties to sub-agreements, and shall not knowingly use confidential information for actual or anticipated personal gain. However, unsolicited gifts with an aggregate value of less than twenty- five dollars (\$25.00) a year, from any single contractor, may be accepted, provided that no particular course of action is required as a condition to receive the gift. The Contractor warrants that s/he has not paid and will not pay gratuities, favors, or anything of monetary value to an officer, employee or agent of the HABD or to any person for influencing or attempting to influence an officer or employee of any agency, Member of Congress or employee of a Member of Congress, or any officer or employee of Congress in connection with the awarding of any HABD contract. Violation of this provision may result in immediate termination of this Agreement. *Conversely, solicitation and acceptance of gifts are allowed for HABD approved Family Self-Sufficiency and Section 3 Programs.*

**9. TERMINATION OF THE CONTRACT FOR CONVENIENCE AND DEFAULT**

9.1 The HABD may terminate this contract in whole, or from time to time in part, for the HABD's convenience or the failure of the Contractor to fulfill the contract obligations (default). The HABD 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 HABD all information, reports, papers, and other materials accumulated or generated in performing this contract, whether completed or in process.



9.2 If the termination is for the convenience of the HABD, the HABD shall be liable only for payment for services rendered before the effective date of the termination.

9.3 If the termination is due to the failure of the Contractor to fulfill its obligations under the contract (default), the HABD may (i) require the Contractor to deliver to it, in the manner and to the extent directed by the HABD, 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 HABD; (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 HABD by the Contractor.

9.4 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 HABD, and the Contractor shall be entitled to payment as described in paragraph (b) above.

#### 10. DISPUTE RESOLUTION PROCEDURE

10.1 The Contractor shall refer any controversy or dispute arising under this Agreement to the Contract Administrator. If the Contractor and the Contract Administrator fail to agree as to the resolution of the dispute or controversy, the Contractor shall give written notice (not later than five (5) calendar days after the conference) of the controversy to the Executive Director. The parties agree that the Executive Director, within her discretion, may refer the matter for alternative dispute resolution if deemed in the best interest of an expedient, cost effective, equitable resolution for the parties. The decision of the Executive Director will be binding on both parties hereto, except as the same may be modified by an arbitrator. The Contractor acknowledges, understands and agrees that compliance with the procedure for this section is a condition precedent to enforcement of any dispute under this Agreement by arbitration; it will operate as a full, complete, and final bar to arbitration by the Contractor, on any matter or cause arising pursuant to the subject matter of this Agreement and any provision hereof, if not utilized or not utilized in good faith for resolution of disputes where the arbitration remedy is later sought pertaining to any aspect of this Agreement and related transactions. *This Section supersedes Clause 7 "Disputes" of the HUD 5370 C General Conditions for Non-Construction Contracts in Exhibit A.*

#### 11. ARBITRATION

11.1 Any dispute, claim or controversy arising out of or relating to this contract, or the breach, termination, enforcement or validity thereof, shall be settled by binding arbitration in Birmingham, Alabama, administered by the National Arbitration Forum (NAF) under its Code of Procedure, currently in effect, and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. There shall be one arbitrator, named in accordance with the procedure. The parties are waiving their right to seek remedies in court, including the right to jury trial. The arbitration will be conducted in accordance with the Federal Arbitration Act (FAA). The arbitrator shall decide the dispute in accordance with the substantive law of the state of Alabama. *This Section supersedes Clause 7 "Disputes" of the HUD 5370 C General Conditions for Non-Construction Contracts in Exhibit A.*

#### 12. SEVERABILITY

12.1 If an arbitrator finds any provision of this Agreement to be void and/or unenforceable, the parties hereto agree that those provisions of the Agreement not directly affected by the void and/or unenforceable provision shall continue in full force and effect.



**13. COMPLIANCE WITH LAWS AND REGULATIONS**

13.1 The Contractor shall give all notices and comply with all applicable laws, ordinances, codes, rules, and regulations as they exist or may be amended during performance of this contract.

**14. MODIFICATIONS**

14.1 The terms and conditions contained in this Agreement may not be added to, modified, superseded or otherwise altered except by agreement of the parties in a written instrument signed by the parties. The work and services of the Contractor shall be deemed to be only upon the terms and conditions contained in this Agreement and consistent with *Clause 2 "Changes" in the HUD form 5370 C General Conditions for Non-Construction in Exhibit A*. Notwithstanding any terms or conditions that may be contained in any acknowledgment, invoice, or other form or writing of the Contractor or any of its subcontractors, and notwithstanding HABD's act of receiving or paying for any nonconforming work, report or services, or any similar action on the part of HABD.

**15. CONSTRUCTION – HEADINGS - CONFLICTS IN LANGUAGE**

15.1 In the event there is any conflict between the language found in **Exhibit A** and the language in the body of this instrument, the terms expressed in the body of this instrument shall be controlling.

15.2 When, in this Agreement, a pronoun is used, it shall be construed to represent the singular or the plural, either the masculine or the feminine, as the case shall demand.

15.3 The headings in this Agreement are inserted for convenience only and shall not be used to define, limit or describe the scope of this Agreement or any of the obligations herein.

**16. LIABILITY - INDEMNITY - REMEDIES- WAIVERS**

16.1 In the course of performing the services under this Agreement Contractor shall assume full liability for any and all claims and demands for injury and property damage caused by its employees, agents or equipment. To the extent any such claim is made or determined payable against the HABD, the Contractor, further, shall defend, indemnify and hold the HABD harmless therefor. This shall include any and all claims arising from the implementation of this Agreement and arising from the work and performance of services undertaken by Contractor, its employees, agents or subcontractors, and arising out of any other operation no matter by whom performed for and on behalf of the Contractor, whether or not due in whole or in part to conditions, acts, or omissions done or permitted by Contractor or the HABD.

16.2 It is understood that persons engaged or employed by the Contractor as employees, agents, or independent agents shall be engaged or employed by the Contractor and not by the HABD. The Contractor alone is responsible for their work, direction, compensation and personal conduct. Nothing included in any provision of this Agreement shall impose any liability or duty upon the HABD to persons, firms, or corporations employed or engaged by Contractor in any capacity whatsoever, or make the HABD liable to any such persons, firms, or corporations, or to any government, for the acts, omissions, liabilities, obligations, and taxes, of whatever nature, of the Contractor or of its employees, agents, or independent agents.

16.3 No remedy herein provided shall be deemed exclusive of any other remedy allowed at law or in equity.



16.4 The failure of either party to insist in any one or more cases upon the strict performance of any of the other party's obligations under this Agreement or to exercise any right or remedy herein contained shall not be construed as a waiver or a relinquishment for the future of such obligation, right or remedy. No waiver by either party of any provision of this Agreement shall be deemed to have been made unless specifically set forth in writing as such waiver and signed by that party.

**17. THIRD PARTY RIGHTS / OTHER RELATIONSHIPS**

17.1 Neither this Agreement, nor any act of HUD or HABD, shall be deemed or construed as creating any right of any third party to enforce any provision hereof or to assert any claim against the HABD. Nothing contained in the Annual Contributions Contract (ACC) or this Agreement, nor any act of HABD or HUD, shall be deemed to create any relationship of third party beneficiary, principal and agent, limited or general partnership, joint venture, or any association or relationship involving HUD, except between HUD and HABD as provided under the terms of the ACC.

17.2 No partner, officer, director, shareholder, employee, agent, or other person authorized to act for and on behalf of either party shall be personally liable for any obligation hereunder, express or implied.

**18. NOTICES**

18.1 Any notice or other communication given or made pursuant to this Agreement shall be in writing and shall be deemed given if (a) delivered personally or by courier; (b) telecopied; (c) sent by overnight express delivery; or (d) mailed by registered or certified mail (return receipt requested), postage prepaid, to a party at its respective address as set forth in the first paragraph of this Agreement (or at such other address as shall be specified by the party by like notice given to the other party).

18.2 All such notices and other communications shall be deemed given on the date of personal or local courier delivery, telecopy transmission, delivery to overnight courier or express delivery service, or deposit in the United States mail, and shall be deemed to have been received (a) in the case of personal or local courier delivery, on the date of such delivery; (b) in the case of telecopy, upon receipt of electronic confirmation thereof (provided that the sender shall have given simultaneous notice by another method approved herein); (c) in the case of delivery by overnight courier or express delivery service, on the date following dispatch, and (d) in the case of mailing, on the date specified in the return receipt therefor.

**19. BEASON-HAMMON ACT/E-VERIFY**

19.1 By signing this contract, the Contracting parties affirm, for the duration of the agreement, that they will not violate federal immigration law or knowingly employ, hire for employment, or continue to employ an unauthorized immigrant within the state of Alabama. Furthermore, a contracting party found to be in violation of this provision shall be deemed in breach of the agreement and shall be responsible for all damages resulting therefrom.

**20. ENTIRE AND FINAL AGREEMENT**

20.1 The parties agree, understand and acknowledge that this written instrument, including the **Arbitration Clause**, along with the heretofore attached *Exhibit A* constitutes the entire Agreement of the parties and that neither party is responsible for nor bound by any terms or conditions not contained herein. This Agreement constitutes the final understanding and agreement between the parties with respect to the subject matter hereof and supersedes all prior negotiations, understandings and agreements between the parties, whether oral or written. This Agreement may be amended,

supplemented or changed only by advance written Agreement for modification, authorized in accordance with the provisions of Section 14 hereof.

IN WITNESS THEREOF the parties have caused this instrument to be executed by their duly authorized representative on the date shown herein.

**CONTRACTOR NAME**

**HOUSING AUTHORITY OF THE BIRMINGHAM DISTRICT**

By: \_\_\_\_\_  
Print  
Name \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

RJW 11/6/15 Contractor Legal Name

**APPROVED AS TO FORM AND CONTENT:**

\_\_\_\_\_  
Compliance Counsel Date



**Attachment N**

**HUD 50071 CERTIFICATION OF PAYMENT TO INFLUENCE  
FEDERAL TRANSACTIONS**

# Certification of Payments to Influence Federal Transactions

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

OMB Approval No. 2577-0157 (Exp. 01/31/2017)

Applicant Name

Program/Activity Receiving Federal Grant Funding

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal 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.

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

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

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

I hereby certify that all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate.  
**Warning:** HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

Name of Authorized Official

Title

Signature

Date (mm/dd/yyyy)

**Attachment O**

**CONFLICT OF INTEREST DISCLOSURE FORM**





## HABD HOUSING AUTHORITY OF THE BIRMINGHAM DISTRICT

### Vendor Conflict of Interest Disclosure Form

All vendors interested in conducting business with Housing Authority of the Birmingham District (HABD) must complete and return the Vendor Conflict of Interest Disclosure Form in order to be eligible to be awarded a contract. Please note that all vendors are subject to comply with HABD's conflict of interest policies as stated within the certification section below.

If a vendor has a relationship with a Board of Commissioner, official or employee or an immediate family member of an HABD official or employee, the vendor shall disclose the information required below.

**Certification:** I hereby certify that to my knowledge, there is no conflict of interest involving the vendor named below:

1. No Board of Commissioner or HABD official or employee or an immediate family member has an ownership interest in vendor's company or is deriving personal financial gain from this contract.
2. No retired or separated HABD official or employee or an immediate family member who has been retired or separated from the organization for less than one (1) year has an ownership interest in vendor's company.
3. No HABD official or employee or an immediate family member is contemporaneously employed or prospectively to be employed with the vendor.
4. Vendor hereby declares it has not and will not provide gifts or hospitality of any dollar value or any other gratuities to any HABD official or employee or an immediate family member to obtain or maintain a contract.

Please note any exceptions below:

Vendor Name	Vendor Phone Number
<b>Conflict of Interest Disclosure *</b>	
Name of Board Member, HABD official, employees or immediate family members with whom there may be a potential conflict of interest.	<input type="checkbox"/> Relationship to employee _____ <input type="checkbox"/> Interest in vendor's company _____ <input type="checkbox"/> Other _____
Comment:	

I have read the referenced resolution regarding disclosure of conflict of interest, and agree to abide by the provisions thereof. I acknowledge that the disclosure of conflicts of interest or potential conflicts is an ongoing obligation and further agree to disclose any changes to this statement. I further acknowledge that a failure to disclose or to resolve conflicts is a violation of the Code of Conduct and Ethics of the Housing Authority of the Birmingham District. I have disclosed to the best of my knowledge any potential conflict of interest in the comment's section (above) or have attached additional documents. I understand that my deliberate failure to make a full disclosure of any potential conflict of interest may constitute cause for the immediate termination of all Agreements.

\_\_\_\_\_  
Signature of Vendor Authorized Representative

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name of Vendor Authorized Representative

#### Procurement Use Only

\_\_\_\_ Yes, named employee or official was involved in the procurement process or decision.

\_\_\_\_ No, named employee or official was not involved in the procurement process or decision.