



**MDHA Purchasing Division**  
**712 South Sixth Street**  
**Nashville, Tennessee 37206**

Date: October 20, 2020  
Phone: 615-252-8432  
Fax: 615-252-6733  
Email: [rjames@nashville-mdha.org](mailto:rjames@nashville-mdha.org)  
Web: [www.nashville-mdha.org](http://www.nashville-mdha.org)

## **Invitation To Bid**

The Purchasing Division of Metropolitan Development and Housing Agency (MDHA) will receive sealed bids for **Stripping and Waxing at Edgefield Manor**, located at 525 Shelby Street, Nashville, TN 37206 as detailed in the conditions and specifications listed herein.

**Bids will be received until:** 2:00 p.m. (local central time) on November 10, 2020

**Pre-Bid Meeting:** 10:00 a.m. (local central time) on October 28, 2020

**Deliver Bids to:** Metropolitan Development & Housing Agency  
Purchasing Division  
712 South Sixth Street  
Nashville, Tennessee 37206

**If you have questions or suggestions about this solicitation:**

Submit to Rita F. James, CPPB  
[rjames@nashville-mdha.org](mailto:rjames@nashville-mdha.org).  
712 South Sixth Street  
Nashville, TN 37206

INVITATION TO BID  
STRIPPING AND WAXING AT EDGEFIELD MANOR

The Metropolitan Development and Housing Agency (MDHA) is soliciting bids from licensed companies for Stripping and Waxing at Edgefield Manor. **Bids will be received until 2:00 p.m., on Tuesday, November 10, 2020 at the MDHA Construction Office, 712 South Sixth Street, Nashville, TN 37206. The bids will be opened “electronically only” via Webex.**

Meeting number (access code): 173 194 5117

Meeting password: UswGt6m4cR3

**Tap to join from a mobile device (attendees only)**

[+1-408-418-9388](tel:+14084189388), [, 1731945117##](tel:+1731945117) United States Toll

**Join by phone**

+1-408-418-9388 United States Toll

[Global call-in numbers](#)

**Join from a video system or application**

Dial [1731945117@nashville-mdha.webex.com](tel:1731945117)

You can also dial 173.243.2.68 and enter your meeting number.

**Join using Microsoft Lync or Microsoft Skype for Business**

Dial [1731945117.nashville-mdha@lync.webex.com](tel:1731945117)

**A pre-bid conference will be “electronically only” via Webex on October 28, 2020 at 10:00 a.m.**

Meeting number (access code): 173 513 2679

Meeting password: MritXq4Bm23

**Tap to join from a mobile device (attendees only)**

[+1-408-418-9388](tel:+14084189388), [, 1735132679##](tel:+1735132679) United States Toll

**Join by phone**

+1-408-418-9388 United States Toll

[Global call-in numbers](#)

**Join from a video system or application**

Dial [1735132679@nashville-mdha.webex.com](tel:1735132679)

You can also dial 173.243.2.68 and enter your meeting number.

**Join using Microsoft Lync or Microsoft Skype for Business**

Dial [1735132679.nashville-mdha@lync.webex.com](tel:1735132679)

MDHA reserves the right to reject any proposals and/or to waive any informalities in the bidding process.

## GENERAL INSTRUCTIONS TO CONTRACTORS

1. **INTENT**

MDHA intends these specifications to result in the selection of a capable contractor to provide Stripping and Waxing as detailed herein.

2. **ACCEPTANCE**

Contractors shall hold their price firm and subject to acceptance by MDHA for sixty working days from the date of the bid opening unless otherwise noted in their bid.

3. **AFFIDAVITS AND SUBMITTALS**

- a. **ELIGIBILITY AFFIDAVIT:** As a part of the bid documents, the Contractor shall execute and deliver an Affidavit of Eligibility on the form attached.
- b. **NON-COLLUSION AFFIDAVIT:** Contractor submitting a bid for any portion of the work contemplated by the attached documents shall execute an affidavit on the form provided by MDHA to the effect that he has not colluded with any person, firm or corporation in regard to a bid submitted. Such affidavit shall be attached to the bid.
- c. **REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF OFFERORS (HUD Form 5369C):** Contractors must submit a completed HUD Form 5369C.

4. **ALTERATIONS OR AMENDMENTS**

Alterations, amendments, changes, modifications or additions to this contract shall not be binding on MDHA without prior written approval.

5. **ASSIGNMENT/SUBCONTRACTING**

The Contractor shall not assign or subcontract this agreement, its obligations or rights hereunder to any party, company, partnership, incorporation or person without the prior written specific consent of MDHA. MDHA may terminate the subsequent contract if assignment or subcontracting is done without approval.

6. **AWARD/ REJECTION OF BIDS**

An award will be made to the responsible Contractor complying with the conditions of the ITB and is in the best interest of MDHA. The Contractor selected will be notified at the earliest practicable date. MDHA, however, reserves the right to reject any and all bids and to waive any informality in the bids received whenever MDHA determines that such rejection or waiver is in MDHA's best interest.

- a. MDHA is prohibited from making any awards to Contractors or accepting as Contractors or subcontractors any individuals or firms which are on lists of Contractors ineligible to receive awards from the United States as furnished from time to time by HUD.
- b. MDHA also reserves the right to reject bids from any Contractor who has previously failed to perform properly or to complete work or contracts of a similar nature on time; who is not in a position to perform the work; or who has habitually and without just cause neglected the payment of subcontractors, or employees.

7. **AWARD PROCESS**

After bids are opened, the Purchasing Division along with departmental representatives will evaluate the responses. A purchase order or contract will be formulated.

8. **COMPLIANCE WITH ALL LAWS**

The Contractor is assumed to be familiar with and agrees to observe and comply with all federal, state and local laws, statutes, ordinances, and regulations in any manner affecting the provision of these services.

9. **DEFAULT**

If the Contractor fails to perform or comply with any provision of this contract or the terms or conditions of any documents referenced and made a part hereof, MDHA may terminate this contract, in whole or in part, and may consider such failure or noncompliance a breach of contract. MDHA expressly retains all its rights and remedies provided by law in case of such breach, and no action by MDHA shall constitute a waiver of any such rights or remedies. In the event of termination for default, MDHA reserves the right to purchase its requirements elsewhere, with or without competitive bidding, as circumstances dictate, subject to applicable rules and regulations.

Should Contractor default be due to a failure to perform, MDHA reserves the right to remove the Contractor from its Contractors list for twenty-four months.

10. **DISQUALIFICATION OF CONTRACTORS**

In addition to all other terms and provisions of these bid documents, Contractors may be disqualified and their bids not considered if:

- a. The Contractor fails to complete the bid documents; or
- b. It is evident in the opinion of MDHA that a Contractor is not capable of performing the work in accordance with the requirements of the bid documents; or
- c. Any other provision of law makes the bid or the performance of the work by the Contractor illegal.

11. **EXPENSES INCURRED**

All expenses incurred in the preparation and submission in response to this solicitation shall be borne by the Contractor.

12. **INDEMNIFICATION/HOLD HARMLESS**

The Contractor shall indemnify, defend, save and hold harmless MDHA, its officers, agents and employees from all suits, claims, actions or damages of any nature brought because of, arising out of, or due to breach of the agreement by Contractor, its subcontractors, suppliers, agents, or employees or due to any negligent act or occurrence or any omission or commission of Contractor, its subcontractors, suppliers, agents or employees.

13. **INTEREST OR MEMBERS, OFFICERS OR EMPLOYEES AND FORMER MEMBERS, OFFICERS OR EMPLOYERS**

No member, officer or employee of MDHA, no member of the governing body of the locality in which the project is situated, no member of the governing body in which MDHA 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 tenure or for one year thereafter have any interest, direct or indirect, in this contract, agreement or purchase order or the proceeds thereof.

14. **INTERPRETATIONS**

MDHA shall not be responsible for any oral interpretation made to the meaning of the specifications. Every request for an interpretation shall be made in writing, and any inquiry received ten or more days prior to the date fixed for receiving bids will be given consideration. Such requests must be submitted by the close of MDHA's business day. Official interpretations will be in the form of addenda which will be on file at the MDHA offices at least seven days before bids are received. In addition, an attempt will be made to transmit addenda to each Contractor; but it shall be the Contractor's responsibility to make inquiry as to addenda issued.

All such addenda shall become a part of the contract and all Contractors shall be bound by such addenda whether or not received by the Contractor.

Contractors shall acknowledge receipt of any addenda to this solicitation by noting the addenda number and date issued on the Form of Bid. The Form of Bid will be submitted to MDHA as part of the Contractor's response. Failure to list any addenda as received may result in the rejection of the bid but a Contractor shall not be relieved of responsibility for its bid by failing to list addenda that have been issued. MDHA shall not be bound by any oral representation or discussion concerning the bid documents or work unless such oral representation or discussion is confirmed in writing as a contract addenda.

15. **INVOICING**

Contractor will submit invoices to Edgefield Manor, Property Manager or Maintenance Supervisor. Invoices will show the contractor company name, address, property location, services provided and the cost.

16. **LIMITATION OF LIABILITY**

In no event shall MDHA be liable for any indirect, incidental, consequential, special or exemplary damages or lost profits, even if MDHA has been advised of the possibility of such damages.

17. **NON-DISCRIMINATION AND NON-CONFLICT STATEMENT**

The Contractor agrees that no person on the grounds of handicap, age, race, color, religion, sex or national origin shall be excluded from participation in, or be denied benefits of, or be otherwise subjected to discrimination in the performance of this agreement, or in the employment practices of the Contractor. The Contractor shall upon request show proof of such non-discrimination and shall post it in a conspicuous place available to all employees and applicants notices of non-discrimination. The Contractor covenants that it complies with the Fair Wage and Hour Laws, the National Labor Relations Act, and other federal and state employment laws as applicable. The Contractor covenants that it does not engage in any illegal employment practices.

The Contractor covenants that it has no public or private interest and shall not acquire directly or indirectly any interest that would conflict in any manner with the provision of its goods or performance of its services. The Contractor warrants that no part of the total contract amount provided herein shall be paid directly or indirectly to any officer or employee of MDHA as wages, compensation or gifts in exchange for acting as officer, agent, employee, subcontractor or consultant to Contractor in connection with any goods provided or work contemplated or performed relative to the agreement.

18. **PROPRIETARY INFORMATION**

Contractors are cautioned that MDHA operates under Tennessee's Open Record Laws and all information in MDHA's possession is subject to disclosure upon request. This applies whether or not such information is stamped "confidential," "Proprietary" or other similar phrases.

19. **PROTESTS**

A protestor must exhaust all administrative remedies with MDHA before pursuing a protest with any federal agency. The protests shall be in writing outlining the circumstances and data relative to the matter of protest. The written protest is to be submitted to the Contract Compliance Officer of MDHA during the bidding or within forty-eight hours following the bid opening. MDHA will consider the protest and seek to resolve the dispute by obtaining staff input and, if needed, consultants and legal counsel. The protestor will be advised as soon as possible in writing as to the action taken.

20. **RESTRICTIVE OR AMBIGUOUS SPECIFICATIONS**

It is the responsibility of the prospective Contractor to review the entire solicitation packet and to notify the Purchasing Division if the specifications unnecessarily restrict competition or are conflicting or ambiguous. Any such protest or question regarding the specifications or bidding procedures must be received in the Purchasing Division with enough time remaining before the opening for an addendum to be issued.

21. **SIGNING OF BIDS**

When submitting your bid, remember that all bids must be signed. Please sign the original in blue ink.

22. **TERMINATION**

- a. MDHA may terminate this agreement, in part or in whole, for its convenience or the failure of the Contractor to fulfill contractual obligations. MDHA 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:
1. Immediately discontinue all services affected (unless the notice directs otherwise).
  2. Deliver to MDHA all information, papers, reports and other materials accumulated or generated in performing the contract, whether completed or in progress.
- b. If the termination is for the convenience of MDHA, MDHA shall only be liable 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, MDHA may:
1. Require the Contractor to deliver any work described in the Notice of Termination.
  2. Withhold any payments to the Contractor for purpose of set-off or partial payment, as the case may be, of amounts owed by MDHA to the Contractor.

In the event of termination for cause, MDHA shall be liable to the Contractor for reasonable costs incurred by the Contractor before the effective date of the termination. Any dispute shall be decided by MDHA's Contract Compliance Officer.

23. **TIME FOR RECEIVING BIDS**

Bids received prior to the time of opening will be safely secured. The Purchasing Agent will decide that the specified time has arrived and bids received thereafter will not be considered. Responsibility will not be assumed by MDHA for premature opening of a bid not properly addressed and identified.

At the time and place fixed for the receipt of bids the documents will be publicly acknowledged, irrespective of any irregularities therein. Contractors and other persons interested may be present, in person or by representative.

24. **TITLE VI OF THE CIVIL RIGHTS ACT**

Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*) "Nondiscrimination in Federally Assisted Programs" states that "No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

25. **USE OF BID FORMS**

- a. Contractors are to complete the bid forms contained in the bid package. Failure to complete the bid forms may result in bid rejection.
- b. Bid documents shall be sealed in an envelope which shall be clearly labeled with the words "Bid" and show the name of the Contractor, date and time to be received, and the type of goods or services to be provided.

26. **WAIVER OF INFORMALITIES**

MDHA reserves the right to waive irregularities in the preparation of bid forms but shall not be obligated to grant

any such waiver.

27. **WITHDRAWAL OF BIDS**

Bids may be withdrawn on written request sent by the Contractor in time for delivery in the normal course of business prior to the time fixed for opening bids. Negligence on the part of the Contractor in preparing a bid confers no right of withdrawal or modifications of a bid after it has been opened.

28. **HUD MAINTENANCE WAGE DETERMINATION**

Contractor(s) are required to comply with the attached HUD Form 5370-C, General Conditions for Non-Construction Contracts, Section II (With Maintenance Work). HUD Form 5370-C is hereby incorporated by reference and made part of each contract awarded. Contractor(s) to pay Maintenance Technician employee's a minimum rate of \$11.91 per hour, Senior Maintenance Technician will be paid \$14.52 per hour and time and a half for all hours in excess of 40 hours per week.

<b>SPECIAL INSTRUCTIONS TO CONTRACTORS</b>
--

1. **BACKGROUND AND INTENT**

Metropolitan Development & Housing Agency (MDHA) is the public housing and redevelopment agency in Nashville, Tennessee.

2. **CONTRACTOR REPRESENTATION**

The Contractor represents and warrants:

- a. That the firm is financially solvent and that it is experienced in and competent to perform the type of work, or to furnish the plans, materials, supplies or equipment to be so performed or furnished by it; and
- b. That the firm is familiar with all federal, state, municipal and county laws, ordinances and regulations, which may in any way affect the work of those employed therein, including but not limited to any special acts relating to the work or to the project of which it is a part; and
- c. That such temporary and permanent work required by the contract documents as is to be done by the firm can be satisfactorily constructed and used for the purpose of which it is intended and that such construction will not injure any person, or damage any property; and
- d. That the firm has carefully examined the plans, the specifications and the site of the work and that from its own investigations, has satisfied itself as to the nature and location of the work, the character, quality, quantity of surface and subsurface materials likely to be encountered, and character of equipment and other facilities needed for the performance of the work, the general and local conditions and all other materials which may in any way affect the work or its performance.

3. **CONTRACTOR RESPONSIBILITIES**

At his/her own expense, the Contractor shall:

- a. Obtain all necessary licenses and permits.
- b. Provide competent supervision.
- c. Provide competent workers.

4. **CODES**

All work shall be conducted in complete accord with all requirements of all authorities having jurisdiction. Contractor agrees and covenants that the company, its agents and employees will comply with all County, State and Federal laws, rules and regulations applicable to the business to be conducted under this contract.

Contractor shall secure all necessary permits for the proper execution and completion of work. The Contractor shall give all notices in compliance with all laws, ordinances, rules and regulations bearing on the conduct of the work. All work shall conform to all applicable federal, state and local regulations governing the same. Nothing in these plans and specifications is to be construed not to conform to codes and regulations. If the Contractor performs any work knowing it to be contrary to such laws, ordinances, rules and regulations, the Contractor shall bear all costs arising from them.

5. **CONTRACT LENGTH**

The length of the contract will be for one year. MDHA has the option to renew this contract on an annual basis for four additional years provided availability of funding and performance of successful contractor.

6. **ENTRANCE TO MDHA SITES**

Only authorized employees of the successful Contractor are allowed on the premises of MDHA. Contractor employees are not to be accompanied in their work area by acquaintances, family members, assistants or any person unless said person is an authorized employee of the Contractor.

7. **IDENTIFICATION**

Employees of the Contractor shall have proper identification displayed, at all times, while on MDHA property. All employees must wear a company uniform, have picture identification badges or other company identification at all times.

8. **CONTRACT AMOUNT**

The contractor whom determined to be the most responsive and responsible bidder will be awarded a one year contract with option (see #5) for an amount not to exceed per yearly cost.

9. **PRICE ADJUSTMENTS**

Bidders are to submit a specific price for services quoted herein.

At the end of each contract term, the successful bidder may request a price increase. Price increase requests must be accompanied by proof of increased cost to the successful bidder. MDHA may, at its option:

- a. Accept the proposed price increase.
- b. Reject the proposed price increase.
- c. Suggest an alternative price increase.

If MDHA rejects a proposed price the successful bidder may:

- a. Continue with the existing pricing.
- b. Suggest an alternative price increase.
- c. End the contract.

Price decreases are allowed at any time with or without notice.

Fuel surcharges are not allowed.

10. **REFERENCES**

MDHA reserves the right to request additional references after the bid opening. The purpose of references will be to ascertain the capability of the Contractor to successfully complete this contract.



## **SCOPE OF WORK**

### **1. STRIPPING AND WAX FLOORS**

The Contractor will be required to perform Stripping and Waxing for Edgefield Manor, as outlined in this document.

Property Manager or Maintenance Supervisor will provide a schedule to the successful Contractor of when services are to begin and to be completed. Contractor is responsible for instructing his/her employees with safe operating procedures for this service. Contractor is responsible for viewing the project prior to submission of bid to MDHA, by contacting Mr. Antonio Carter, Maintenance Supervisor at (615) 252-3713 ext. 2113

**MATERIALS:** The Contractor is responsible for all labor, equipment and materials to perform the services outlined in this document. Contractor's equipment will be maintained in good working condition at all times and to meet or exceed OSHA requirements.

**CONTRACT AMOUNT:** Contractors will submit the Bid Form located in this document, indicating a total yearly cost. The yearly cost will be inclusive of all work described in this document.

**PAYMENT SCHEDULE:** Approval of completed work will be obtained from the Property Manager/Maintenance Superintendent before payment.

### **CONTRACTOR'S RESPONSIBILITIES**

(a) At all times during performance of this contract and until the work is completed and accepted, the Contractor shall directly superintend the work or assign and have on the work site a competent superintendent who is satisfactory to the Maintenance Supervisor and has authority to act for the Contractor.

(b) The Contractor shall be responsible for all damages to persons or property that occur as a result of the Contractor's fault or negligence, and shall take proper safety and health precautions to protect the work, the workers, the public, and the property of others. The Contractor shall hold and save the PHA, its officers and agents, free and harmless from liability of any nature occasioned by the Contractor's performance. The Contractor shall also be responsible for all materials delivered and work performed until completion and acceptance of the entire work, except for any completed unit of work which may have been accepted under the contract.

(c) After completing the work and before final inspection, the Contractor shall (1) remove from the premises all equipment, tools, and materials (including rejected materials) that are not the property of the PHA and all rubbish caused by its work; (2) leave the work area in a clean, neat and orderly condition satisfactory to the Contracting Office; (3) perform all specified tests; and, (4) deliver the installation in complete and operating condition.

(d) The Contractor's responsibility will terminate when all work has been completed, the final inspection made, and the work accepted by the Property Manager/Maintenance Supervisor. The Contractor will then be released from further obligation

### **2. INSURANCE**

Upon award, the Contractor shall maintain insurance as indicated below. Proof of insurance must be submitted to MDHA.

The Contractor must have at least the following minimum level of insurance:

- a. Worker's Compensation which meets the statutory requirements of the State of Tennessee.
- b. General Liability coverage with bodily injury and property damage limits of not less than \$500,000 five hundred thousand dollars per occurrence.

- c. Automobile Liability on owned and non-owned motor vehicles used on the site(s) or in connection therewith for a combined single limit for bodily injury and property damage of not less than \$500,000 five hundred thousand dollars per occurrence.
- d. MDHA shall be named as an additional insured and certification holder and identify the description of work.

3. **REQUIREMENTS CONTRACT ACKNOWLEDGEMENT**

MDHA will have no obligation to the Contractor if items or services are not required. However, the present expectations indicate the need for these services.

4. **SCOPE OF WORK**

Contractor will strip and wax 1<sup>st</sup> floor common areas (quarterly), including elevator floor, the leasing assistant office, managers office, hallway, lounge, and public restroom(s) are to be **STRIP ONLY**. The 2<sup>ND</sup> – 9<sup>th</sup> floor (1300 sq. ft. per hallway) every six months using Reflection 22 Wax or equal too; applying 5 to 6 coats per waxing. Laundry Room on floors 3, 5, 7 & 9 are to be stripped only. Contractor will be responsible for utilizing a speed buffer. Contractor will ensure all furniture is removed and replaced in areas to be stripped and waxed. Prior to waxing, contractor to ensure cove base is cleaned. Contractor to place signs where working indicating wet floors to ensure safety of residents. Contractor to provide Maintenance Supervisor with a schedule of anticipated work schedule at a minimum of 72 hours prior to beginning any work. Contractor is responsible for coordinating with the Maintenance Supervisor upon completion for approval of payment. Work hours are to be coordinated with the Maintenance Supervisor.

Contractors are cautioned that they are expected to use the following format to present their bid. Attach any additional information to these sheets.

ITEM/QUESTION	RESPONSE
Authorizing Signature	
Date	
Printed Name and Title	
Contractor	
Street Address	
City	
State	
Zip	
Contact Person (Please Print Clearly)	
Telephone Number	
Fax Number	
Contractor's e-mail address (Please Print Clearly)	
Credit Cards are Accepted	

This business qualifies as \_\_\_ Women Owned \_\_\_ Small Business \_\_\_ Minority Owned

Acknowledge the receipt of addenda by checking below as appropriate:

Addendum 1 \_\_\_\_\_ Addendum 2 \_\_\_\_\_ Addendum 3 \_\_\_\_\_ Addendum 4 \_\_\_\_\_

**BID PRICE FOR STRIPPING AND WAXING AT EDGEFIELD MANOR**

1). 1<sup>st</sup> floor common areas per quarter \$ \_\_\_\_\_ x 4 \$ \_\_\_\_\_ total yearly cost

2). 2<sup>nd</sup> – 9<sup>th</sup> floor every six months, per floor \$ \_\_\_\_\_ x 8 \$ \_\_\_\_\_ x 2 \$ \_\_\_\_\_ total yearly cost

**Add lines 1 & 2 total yearly cost      \$ \_\_\_\_\_**

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

\_\_\_\_\_ being first duly sworn deposes and says that:

1. He is the \_\_\_\_\_ of \_\_\_\_\_, the firm that has submitted the attached bid;
2. He is fully informed respecting the preparation and contents of the attached bid and of all pertinent circumstances respecting such bid;
3. Such bid is genuine and is not a collusive or sham bid;
4. Neither the said firm nor any of its officers, partners, owners, agents, representatives, employees or parties interest, including this affidavit, has in any way colluded conspired, connived or agreed, directly or indirectly, with any other responder, firm, or person to submit a collusive or sham bid in connection with the contract or agreement for which the attached bid has been submitted or to refrain from making a bid in connection with such contract or agreement, or collusion or communication or conference with any other firm, or, to fix any overhead, profit, or cost element of the bid price or the bid price of any other firm, or to secure through any collusion, conspiracy, connivance, or unlawful agreement any advantage against MDHA or any person interested in the proposed contract or agreement; and
5. The price or prices quoted in the attached bid are fair and proper and are not tainted by any collusion, conspiracy, connivance, or unlawful agreement on the part of the firm or any of its agents, representatives, owners, employees, or parties in interest, including this affidavit.

Signed \_\_\_\_\_ Title \_\_\_\_\_

**SOLICITATION DOCUMENT C**

**AFFIDAVIT OF ELIGIBILITY**

After being duly sworn according to law, the undersigned states that he/she is the

\_\_\_\_\_ of \_\_\_\_\_

(the “responder”) and that:

- a. The responder is not ineligible for employment on public contracts as a result of a conviction or guilty plea or a plea of nolo contendere to violations of the Sherman Anti-Trust Act, mail fraud or state criminal violations with a contact let by the State of Tennessee or any political subdivision of the State of Tennessee.
- b. No commissioner or officer of MDHA or other person whose duty it is to vote for, let out, overlook or in any manner superintend any of the work for MDHA has a direct interest in the responder.

Dated: \_\_\_\_\_

\_\_\_\_\_  
(Name of Responder)

\_\_\_\_\_  
(Signature of Responder)

Signed: \_\_\_\_\_

Title \_\_\_\_\_

## **1. MDHA DIVERSITY BUSINESS ENTERPRISE PROGRAM**

The Metropolitan Development and Housing Agency (MDHA) has established a Diversity Business Enterprise (DBE) Program to enhance the participation of minority, women and small business enterprise firms in the Agency's contracting and purchasing activities. The DBE Program is being implemented to increase utilization of minority, women and small businesses and to provide these businesses greater economic opportunity. MDHA's Construction Department is responsible for the Diversity Business Program Administration.

In support of this program, we require architectural/engineering firms, contractors and their subcontractors and other lower-tier subcontractors, vendors and suppliers, who do business with Metropolitan Development and Housing Agency to adopt similar policies. Businesses bidding or proposing on procurements are required to comply with the provisions of the DBE Program. MDHA prohibits discrimination against any person, business or organization in pursuit of its' procurement opportunities on the basis of race, color, sex, religion, disability or national origin. MDHA will conduct its contracting and purchasing programs so as to prevent any discrimination and to resolve all allegations of discrimination.

## **2. Diversity Business Enterprise Policy**

It is the policy of MDHA to assist minority, women and small business enterprise firms in their aspirations of viability and growth, which support a more stable economic community. To this extent, we join with community agencies and organizations that support these businesses to create greater opportunities for these entrepreneurs in the attainment of mutually beneficial social and economic objectives. Minority, women and small business enterprise firms will be given the maximum practicable opportunity, consistent with efficient performance, to compete for and participate in contracts, subcontracts, purchase orders and other procurement activities.

**3. Definitions For Determining Minority, Women And Small-Owned Firms.** The guidelines for determining minority, women and small-owned firms are defined as follows:

“**MINORITY**” means a person who is a citizen or lawful permanent resident of the United States and who is:

- Black (a person having origins in any of the black racial groups of Africa);
- Hispanic (a person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race);
- Asian American (a person having origins in any of the original peoples of the Far East. Southeast
- Asia, the Indian subcontinent, or the Pacific Islands); or
- American Indian and Alaskan Native (a person having origins in any of the original peoples of North America).

“**MINORITY BUSINESS ENTERPRISE**” shall mean a minority business:

A continuing, independent, for profit business which performs a commercially useful function, and is at least 51 percent owned and controlled by one or more minority individuals; or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned and controlled by one or more minorities. Whose management and daily business operations are controlled by one or more of minority individuals. “Control” as used in the above clause, means exercising the power to make policy decision. “Operate,” as used in the above clause, means being actively involved in the day-to-day management of the business.

**“WOMEN BUSINESS ENTERPRISE”** shall mean women business:

A continuing, independent, for profit business which performs a commercially useful function, and which is at least 51 percent owned and controlled by one or more women; or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned and controlled by one or more women. Whose management and daily business operations are controlled by one or more of such individuals. “Control” as used in the above clause, means exercising the power to make policy decision. “Operate,” as used in the above clause, means being actively involved in the day-to-day management of the business.

**SMALL BUSINESS ENTERPRISE AS DEFINED IN SECTION 4.44.010 OF THE METROPOLITAN CODE OF LAWS;**

A Small Business satisfies all of the following criteria:

- (a) A United States business which is independently owned and operated, and which is not dominant in its field of operation or an affiliate or subsidiary of a business dominant in it’s field of operation.
- (b) Either has no more than the following number of employees or has no more than the following annual sales volume for the applicable industry; and

INDUSTRY	ANNUAL SALES VOLUME	MAXIMUM NUMBER OF EMPLOYEES*
Agriculture, Forestry, Fishing	\$500,000	9
Architectural/Design/Engineering	\$2,000,000	30
Construction	\$2,000,000	30
Educational	\$1,000,000	9
Finance, Insurance, Real Estate	\$1,000,000	9
Information Systems/Technology	\$2,000,000	30
Manufacturing	\$2,000,000	99
Marketing/Communications/Public Relations	\$2,000,000	30
Medical/Healthcare	\$2,000,000	30
Mining	\$1,000,000	49
Retail Trade	\$750,000	9

Service Industry	\$500,000	9
Transportation, Commerce and Utilities	\$1,000,000	9
Wholesale Trade	\$1,000,000	19

(c) Meets the following additional criteria:

1. Has demonstrated capability to perform independently a substantial portion of the contract they seek, or a substantial portion of the subcontract for which they are proposed by a bidder or offeror, as specified by the Purchasing Agent;
2. Not share or jointly use office space, production, marketing and sales, business support systems, personnel, or equipment with any business not classified by Metro as a small business (i.e., a large business);
3. Has existed as a legal business entity for a minimum of one year (twelve months of continuous business enterprise), performing independently and satisfactorily and achieving a minimum of \$35,000.00 sales income (collected sales dollars not simply booked sales);
4. Not to be owned, controlled, or directed by individuals or groups of individuals who own, control or direct a large business involved in the same category of work as the business for which small business status is sought;
5. If a supplier, be an authorized regular distributor with normal wholesale agreements for the Product or products to be supplied; and
6. If a construction contractor, be licensed as required by the state to perform the work for which it has submitted a bid or has been proposed by a prime as a subcontractor.

\*NOTE: Employee means a person (or persons) employed on a full-time (or full-time equivalent), a permanent basis. Full-time equivalent includes employees who work 30 hours per week or more. Full-time equivalent also includes the aggregate of employees who work less than 30 hours a week, where the work hours of such employees add up to at least 40 hour work week. The totality of the circumstances, including factors relevant for tax purposes, will determine whether persons are employees of a concern. Temporary employees, independent contractors or leased employees are not employees for these purposes. The owner(s) are excluded from this classification.

Minority, women and small-owned firms are required to provide proof of their eligibility in accordance with these guidelines.

#### **4. Utilization of Diversity Business Enterprise Firms**

In order to provide minority, women and small businesses equal opportunity to participate in MDHA's procurements, A/E's and contractors bidding or proposing on Agency procurements are required to solicit the services of minority, women and small business firms. A/E's, and contractors who are awarded contracts, or purchase orders, along with their subcontractors, and other lower-tier subcontractors must commit to utilize Diversity Business Enterprise firms as part of their contractual obligation.



**a. Diversity Business Enterprise Program Compliance Forms**

To be considered a responsive bidder or proposer, Diversity Business Enterprise forms 2001, 2002, and 2003 must be completed in its entirety and submitted with the bid/or proposal.

**5. MDHA Diversity Business Goal**

**A goal of 20% Diversity Business Participation has been established for this project.**

Firms will submit with their proposal DBE Form 2001 indicating efforts to utilize DBE sub-consultants, DBE Form 2002 if joint venturing with a DBE business and DBE Form 2003 showing commitment to meet established goal and indicating type of work and dollar amount for each DBE business.

**6. Program Questions/Information**

Questions regarding the DBE Program and requests for information should be directed to: Metropolitan Development and Housing Agency's Diversity Business Coordinator, Diane Baseheart, 712 South Sixth Street, Nashville, Tennessee 37206, (615) 252-8434 or [dbaseheart@nashville-mdha.org](mailto:dbaseheart@nashville-mdha.org).

**7. MDHA DBE Directory**

To assist firms in obtaining the DBE goal for this project, organizations are encouraged to visit the MDHA Website at [www.nashville-mdha.org/dbe.php](http://www.nashville-mdha.org/dbe.php). Organizations can download the MDHA Vendor Database at this website to make contact with DBE firms. For more information regarding the MDHA DBE program, organizations are invited to contact Diane Baseheart at (615) 252-8434 or by email [dbaseheart@nashville-mdha.org](mailto:dbaseheart@nashville-mdha.org).

**HUD SECTION 3  
BIDDER CERTIFICATION AND COMPLIANCE AGREEMENT**

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

**[ ] Is a Section 3 Business concern in accordance with HUD Act of 1968 (12 U.S.C.1701u) (Section 3) Part 135. A Section 3 Business concern means a business concern:**

1. That is 51% or more owned by Section 3 Residents(s); or
2. Whose permanent, full-time employees include persons, at least 30% of whom are currently Section 3 residents, or within the last three years of the date of first employment with the business concern were Section 3 residents; or
3. That provides evidence of a commitment to subcontract in excess of 25% of the dollar value of all subcontracts to be awarded to business concerns that meet the qualifications set forth in paragraphs 1 or 2 herein.

**[ ] Is Not a Section 3 Business concern but who has and will continue to seek compliance with Section 3 by certifying the following efforts to be undertaken:**

1. By contacting business assistance agencies, minority contractors associations and community organizations to inform them of the contracting opportunities and requesting their assistance in identifying Section 3 businesses which may solicit bids for a portion of the work.
2. By advertising contracting opportunities by posting notices, which provide general information about the work to be contracted and where to obtain additional information, in the common areas of the applicable developments(s) owned and managed by the Housing Authority.
3. By providing written notice to all known Section 3 business concern of contracting opportunities. This notice should be in sufficient time to allow the Section 3 business concerns to respond to bid invitations.
4. By following up with Section 3 business concerns that have expressed interest in the contracting opportunities.
5. By coordinating meetings at which Section 3 business concerns could be informed of specific elements of the work for which subcontract bids are being sought.
6. By conducting workshops on contracting procedures and specific contacting opportunities in a timely manner so that Section 3 concerns can take advantage of contracting opportunities.
7. By advising Section 3 business concerns as to where they may seek assistance to overcome barriers such as inability to obtain bonding, financing, insurance, etc.
8. Where appropriate, by breaking out contract work into economically feasible units to facilitate participation by Section 3 businesses.
9. By developing and utilizing a list of eligible Section 3 business concerns.
10. By actively supporting and undertaking joint ventures with Section 3 businesses.
11. By establishing training programs, which are consistent with the requirements of the Department of Labor, specifically for Section 3 residents in the building trades.
12. By advertising employment and training positions to dwelling units occupied by Category 1 and 2 residents.
13. By contacting resident councils and other resident organizations in the affected housing development to request assistance in notifying residents of the training and employment positions to be filled.
14. By arranging interviews and conducting interviews on the job site.
15. By undertaking such continued job training efforts as may be necessary to ensure the continued employment of Section 3 residents previously hire for employment opportunities.

Signature: \_\_\_\_\_ Title: \_\_\_\_\_

Sworn to and subscribed before me on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

# Certifications and Representations of Offerors

## Non-Construction Contract

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

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

### 1. Contingent Fee Representation and Agreement

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

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

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

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

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

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

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

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

(Check the block applicable to you)

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

### 3. Certificate of Independent Price Determination

(a) The bidder/offeror certifies that—

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

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

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

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

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

#### 4. Organizational Conflicts of Interest Certification

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

(i) Award of the contract may result in an unfair competitive advantage;

(ii) The Contractor's objectivity in performing the contract work may be impaired; or

(iii) That the Contractor has disclosed all relevant information and requested the HA to make a determination with respect to this Contract.

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

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

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

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

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

#### 6. Conflict of Interest

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

#### 7. Offeror's Signature

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

---

Signature & Date:

---

Typed or Printed Name:

---

Title:

---

# General Conditions for Non-Construction Contracts

## Section II – (With Maintenance Work)

### U.S. Department of Housing and Urban Development

Office of Public and Indian Housing

Office of Labor Relations

OMB Approval No. 2577-0157 (exp. 3/31/2020)

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

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

- 1) Non-construction contracts (*without* maintenance) greater than \$100,000 - use Section I;
- 2) Maintenance contracts (including nonroutine maintenance as defined at 24 CFR 905.200) 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 II – Labor Standard Provisions for all Maintenance Contracts greater than \$2,000

#### 1. Minimum Wages

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

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

#### 2. Withholding of funds

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

#### 3. Records

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

#### 4. Apprentices and Trainees

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

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

- (ii) A trainee program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, ETA; or
- (iii) A training/trainee program that has received prior approval by HUD.

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

**5. Disputes concerning labor standards**

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

forth those findings that are in dispute and the reasons, including any affirmative defenses, with respect to the violations. The request shall be directed to the appropriate HA or HUD official in accordance with instructions contained in the notice of findings or, if the notice does not specify to whom a request should be made, to the Regional Labor Relations Officer (HUD). The HA or HUD official shall, within 60 days (unless otherwise indicated in the notice of findings) after receipt of a timely request for reconsideration, issue a written decision on the findings of violation. The written decision on reconsideration shall contain instructions that any appeal of the decision shall be addressed to the Regional Labor Relations Officer by letter postmarked within 30 calendar days after the date of the decision. In the event that the Regional Labor Relations Officer was the deciding official on reconsideration, the appeal shall be directed to the Director, Office of Labor Relations (HUD). Any appeal must set forth the aspects of the decision that are in dispute and the reasons, including any affirmative defenses, with respect to the violations. The Regional Labor Relations Officer shall, within 60 days (unless otherwise indicated in the decision on reconsideration) after receipt of a timely appeal, issue a written decision on the findings. A decision of the Regional Labor Relations Officer may be appealed to the Director, Office of Labor Relations, by letter postmarked within 30 days of the Regional Labor Relations Officer's decision. Any appeal to the Director must set forth the aspects of the prior decision(s) that are in dispute and the reasons. The decision of the Director, Office of Labor Relations, shall be final.

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

**6. Contract Work Hours and Safety Standards Act**

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

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

---

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

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

## **7. Subcontracts**

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

## **8. Non-Federal Prevailing Wage Rates**

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