

# OFFICIAL BID DOCUMENTS

**SECTION B**

**INSTRUCTIONS TO BIDDERS FOR CONTRACTS  
PUBLIC AND INDIAN HOUSING PROGRAMS  
(Form HUD-5369)**

**AND**

**REPRESENTATIONS, CERTIFICATIONS, AND OTHER  
STATEMENTS OF BIDDERS  
PUBLIC AND INDIAN HOUSING PROGRAMS  
(Form HUD-5369-A)**

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

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

# Instructions to Bidders for Contracts

## Public and Indian Housing Programs

### Table of Contents

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

### 1. Bid Preparation and Submission

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

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

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

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

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

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

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

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

### 2. Explanations and Interpretations to Prospective Bidders

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

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

### 3. Amendments to Invitations for Bids

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

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

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

### 4. Responsibility of Prospective Contractor

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

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

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

## 5. Late Submissions, Modifications, and Withdrawal of Bids

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

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

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

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

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

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

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

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

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

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

## 6. Bid Opening

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

## 7. Service of Protest

(a) Definitions. As used in this provision:

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

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

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

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

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

## 8. Contract Award

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

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

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

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

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

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

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

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

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

**10. Assurance of Completion**

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

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

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

(3) a 20 percent cash escrow;

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

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

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

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

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

**11. Preconstruction Conference** (applicable to construction contracts)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



# Representations, Certifications, and Other Statements of Bidders

## Public and Indian Housing Programs

### Table of Contents

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

### 1. Certificate of Independent Price Determination

#### (a) The bidder certifies that--

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### 2. Contingent Fee Representation and Agreement

(a) Definitions. As used in this provision:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### 4. Organizational Conflicts of Interest Certification

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

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

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

#### 5. Bidder's Certification of Eligibility

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

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

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

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

#### 6. Minimum Bid Acceptance Period

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

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

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

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

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

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

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

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

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

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

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

(Check the block applicable to you)

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

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

The bidder represents and certifies that it:

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

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

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

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

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

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

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

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

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

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

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

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

(1) Obtain identical certifications from the proposed subcontractors;

(2) Retain the certifications in its files; and

(3) Forward the following notice to the proposed subcontractors (except if the proposed subcontractors have submitted identical certifications for specific time periods):

**Notice to Prospective Subcontractors of Requirement for Certifications of Nonsegregated Facilities**

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

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

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

The bidder certifies that:

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

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

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

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

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

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

**13. Bidder's Signature**

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

\_\_\_\_\_  
(Signature and Date)

\_\_\_\_\_  
(Typed or Printed Name)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Company Name)

\_\_\_\_\_  
(Company Address)

## **SECTION D**

### **FORM OF BID**

- Form of Bid
- Form of Bid Bond
- Certificate as to Corporate Principal
- Affidavit of Non-Collusion

**FORM OF BID**

**Louisville Metro Housing Authority  
420 South Eighth Street  
Louisville, Kentucky 40203**

Gentlemen:

We, the signatories, state that we or our representatives have visited the sites of the proposed work on \_\_\_\_\_, 20\_\_\_\_ and have fully familiarized ourselves with all conditions affecting the cost of the work and with the specifications [including Advertisement for Bids, Instructions to Bidders (HUD-5369), Representations, Certifications, and Other Statements of Bidders (HUD-5369-A), Supplemental Instructions to Bidders, MBE Requirements, Bid Proposal and forms, to include this page, Form of Bid Bond, Non-Collusive Affidavit, Schedule of MBE Participation, Schedule of MBE Unavailability, Addenda, if any thereto, Supplemental Bid Information, Form of Contract, Form of Performance Bond, Form of Payment Bond, General Conditions (HUD-5370), Supplemental General Conditions, Special Conditions, Specifications, Project Manual and Drawings on file in the Capital Improvements Department Louisville Metro Housing Authority, Kentucky, and having examined the work sites and the documents titled above hereby propose to furnish all labor, materials, equipment and services required to complete the work entitled:

**4513 FEGENBUSH LANE AND 4317 NORBROOK DRIVE SIDING REPLACEMENT  
PROPOSAL NO. 1567**

In submitting this bid it is understood and agreed that the Louisville Metro Housing Authority reserves the right to accept any bid, or portion thereof, reject any or all bids, to waive any informalities in bids received where such acceptance, rejection, or waiver is considered to be in the best interest of the Louisville Metro Housing Authority and to reject any bid where evidence or information submitted by the bidder does not satisfy the Louisville Metro Housing Authority that the bidder is qualified, capable of carrying out the requirements of the Contract Documents or is in any manner unresponsive in the preparation of its bid.

If written notice of intent to award the contract connected with this bid is mailed, telegraphed or delivered to the undersigned within sixty (60) days after the opening thereof, or at any time thereafter, unless the bid is withdrawn in writing, the undersigned agrees to execute and deliver a contract in the prescribed form and furnish the required bonds and meet other stipulated requirements within ten (10) days after the contract is presented to him/her for signature.

**"FORM OF BID BOND"**

KNOW ALL MEN BY THESE PRESENTS, That we the undersigned,

\_\_\_\_\_  
(NAME OF PRINCIPAL)

as Principal, and

\_\_\_\_\_  
(NAME OF SURETY)

as Surety, are held and firmly bound unto the Louisville Metro Housing Authority, Louisville, Kentucky, hereinafter called the "LMHA", in the penal sum of \_\_\_\_\_ DOLLARS, lawful money of the United States of America, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that whereas the Principal has submitted the accompanying bid,

dated \_\_\_\_\_, 20\_\_\_\_, for:

**4513 FEGENBUSH LANE AND 4317 NORBROOK DRIVE SIDING REPLACEMENT  
PROPOSAL NO. 1567**

NOW, THEREFORE, the Principal shall not withdraw said bid within the sixty (60) day period specified therein after the opening of the same, and shall within the ten (10) day period specified after the prescribed forms are presented to him/her for signatures, enter into a written contract with the LMHA in accordance with the bid as accepted, and give bond with good and sufficient surety or sureties, as may be required, for the faithful performance and proper fulfillment of such contract; or in the event of the withdrawal of said bid within the sixty (60) day period specified, or the failure to enter into such contract and give such bond within the time specified, the Principal shall be obligated and shall pay the LMHA the difference between the amount specified in said bid and the amount for which the LMHA may procure the required work or supplies, or both, if the latter amount be in excess of the former, as the full force and virtue of this Bid Bond shall so provide.

**NOTE: Failure to complete and submit THIS bond form is ground for bid rejection.**

IN WITNESS WHEREOF, the above-bonded parties have executed this instrument under their several seals this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, the name and corporate seal of each incorporated party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

**PRINCIPAL**

Name \_\_\_\_\_

Business Address of Corporate Principal \_\_\_\_\_

BY: \_\_\_\_\_  
(Representative's Signature)

**AFFIX CORPORATE  
SEAL**

TITLE: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
(Signature)

NAME: \_\_\_\_\_  
(Print or type)

**SURETY**

Name and Business \_\_\_\_\_

Address of Corporate \_\_\_\_\_

Surety: \_\_\_\_\_

BY: \_\_\_\_\_  
(Representative's Signature)

**AFFIX CORPORATE  
SEAL**

TITLE: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
(Signature)

NAME: \_\_\_\_\_  
(Print or type)

**POWER OF ATTORNEY FOR PERSON SIGNING FOR SURETY COMPANY MUST BE ATTACHED HERETO.**

**NOTE: Failure to complete and submit THIS form is ground for bid rejection.**

**CERTIFICATE AS TO CORPORATE PRINCIPAL**

I, \_\_\_\_\_, certify that I am the  
(Printed name of Corporate Officer)

\_\_\_\_\_ of the Corporation named as  
(Title of Corporate Officer)

Principal in the within bond; that \_\_\_\_\_ who,  
(Representative who signed as Principal above)

signed the said bond on behalf of the Principal was then the \_\_\_\_\_  
(Title of Representative)

of said Corporation; that I knew his/her signature, and his/her signature thereto is genuine;

and that said bond was duly signed, sealed and attested to for and in behalf of said

Corporation by Authority of its governing body.

**AFFIX CORPORATE  
SEAL**

BY: \_\_\_\_\_  
(Signature of Corporate Officer)

TITLE: \_\_\_\_\_  
(Print or Type)

**Instructions:** "Corporate Officer" means any authorized officer of the firm submitting this bid, **except** the person who signed the bid bond as "Representative" on behalf of the bidding firm.

"Name of Representative" means the person who signed the bid bond (preceding page) on behalf of the bidding firm.

Names and titles of persons associated with the Surety should not appear on this page.

**NOTE:** Failure to complete and submit **THIS** form is ground for bid rejection.



**AFFIDAVIT OF NON-COLLUSION**

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

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

\_\_\_\_\_, being first duly sworn,  
(Printed name of Representative)

deposes and says:

That he or she is \_\_\_\_\_  
(A Partner, Officer, etc. of bidding 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 submit 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 any overhead, profit, or cost element of said bid price, or of that of any other bidder, or to secure any advantage against the Louisville Metro Housing Authority or any person interested in the proposed contract; and that all statements in said proposal or bid are true.

BY: \_\_\_\_\_  
(\* Signature)

Subscribed and sworn to before me this \_\_\_\_\_ day  
of \_\_\_\_\_, 20\_\_.

Signature of Notary: \_\_\_\_\_

**AFFIX SEAL  
OF NOTARY**

My commission expires: \_\_\_\_\_.

- |  |
|--|
| <p>* Signature of:</p> <ol style="list-style-type: none"><li>1. Bidder, if the bidder is an individual;</li><li>2. Partner, if the bidder is a partnership; or</li><li>3. Corporate Officer, if the bidder is a corporation.</li></ol> |
|--|

<p><b>NOTE: Failure to complete and submit <u>THIS</u> form is ground for bid rejection.</b></p>
--

The Bidder represents that it \_\_\_ **has** \_\_\_ **has not** participated in a previous contract or subcontract subject to the equal opportunity clause prescribed by Executive Orders 10925, 11114, or 11246, or the Secretary of Labor; that it \_\_\_ **has** \_\_\_ **has not** filed all required compliance reports; and that representations indicating submittal of required compliance reports, signed by proposed subcontractors, will be obtained prior to subcontracts being awarded. The above representation need not be submitted in connection with contracts or subcontracts which are exempt from the clause.

Certification of Non-Segregated Facilities - By signing this bid, the Bidder certifies that it does not, and will not, maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not, and will not, permit its employees to perform their services at any location, under its control, where segregated facilities are, or will be, maintained. The Bidder agrees that a breach of this certification is a violation of the Equal Opportunity clause of the Contract Documents. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, parking lots, time clocks, locker rooms and other storage or dressing areas, drinking fountains, recreation, break, or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are, in fact, segregated on the basis of race, color, religion, or national origin, or because of habit, local custom, or otherwise. The Bidder further agrees that (except where it has obtained identical certifications from proposed subcontractors for specific time periods) it will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding \$10,000.00 which are not exempt from the provisions of the Equal Opportunity clause; that it will forward a notice to proposed subcontractors as provided in the Instructions to Bidders.

The penalty for making false statements in offers (10 year imprisonment and/or \$10,000 fine) is prescribed in 18 U.S.C. 1001.
--

**RECEIPT OF ADDENDA IS ACKNOWLEDGED FOR:**

ADDENDUM NUMBER      ADDENDUM DATE

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

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

Attach additional  
sheets if  
necessary.

**BIDDERS MUST SUBMIT BASE BID TO BE CONSIDERED RESPONSIVE.**

**Check box if claiming status as a 'Section 3 Business Concern' and supply certification.**

**BASE BID:**

AMOUNT OF BASE BID FOR (Use words)

\_\_\_\_\_ DOLLARS AND \_\_\_\_\_ CENTS,

(\$ \_\_\_\_\_).  
(Use figures)

DATE: \_\_\_\_\_

NAME OF FIRM: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

BY: \_\_\_\_\_  
(Representative's Signature)

**AFFIX CORPORATE  
SEAL**

TITLE: \_\_\_\_\_  
(Print or type)

**BIDDERS ARE CAUTIONED TO ENSURE THAT ALL INFORMATION REQUESTED IN SECTIONS B, D, AND E OF THIS SOLICITATION HAS BEEN PROVIDED IN FULL AND ACCURATE DETAIL. FAILURE TO DO SO MAY RENDER THE BID NONRESPONSIVE.**

The penalty for making false statements in offers (10 year imprisonment and/or \$10,000 fine) is prescribed in 18 U.S.C. 1001.

**END OF SECTION D**

**SECTION E**

**SUPPLEMENTAL BID INFORMATION**

- Bidder's Point of Contact
- Lists of Materials and Equipment
- List of Proposed Subcontractors
- Affidavit of Sub-Bidder
- Bidder's Qualifications
- Form HUD 2530

**SUPPLEMENTAL BID INFORMATION**

These documents are a supplement to the bid proposal. **These forms must be submitted, at the time and place of the bid opening, in a sealed envelope, separate from Section D, *Form of Bid*.** This supplemental information will be used for bid analysis and evaluation.

***Failure to submit any required information is grounds for rejection of bid!***

The Louisville Metro Housing Authority (LMHA) reserves the right to waive any formalities and/or accept, reject, or negotiate any or all offerings, representations, or proposals contained in this section of the bid submittal. Upon execution of the contract, all representations made herein shall become part of the contract and shall be equally as binding as any other portion of the Contract Documents (unless expressly rejected by LMHA prior to execution of the contract). The preceding sentence notwithstanding, the burden of proof of equality of all methods, equipment, and materials listed in this section to those indicated in the project specifications or drawings is on the Bidder.

Indicate below, the name and phone number of the individual who may be contacted to supply or clarify information required in connection with this bid.

NAME: \_\_\_\_\_ PHONE: \_\_\_\_\_

TITLE: \_\_\_\_\_ EMAIL: \_\_\_\_\_

Alternate Contract:

NAME: \_\_\_\_\_ PHONE: \_\_\_\_\_

TITLE: \_\_\_\_\_ EMAIL: \_\_\_\_\_

Bidder's Business Address (PO Box is not acceptable):

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

Bidder's Federal Employer ID Number: \_\_\_\_\_

**LIST OF MATERIALS AND EQUIPMENT**

Each bidder shall indicate the brand name of materials and/or equipment it proposes to use if awarded this contract.

The bidder shall clearly identify the materials and/or equipment that it proposes to furnish. **Stating "as per plans and specifications" is not sufficient identification.** If the bidder identifies the name or brand of materials and/or equipment which does not conform to the requirements of this solicitation, as determined by LMHA, the bidder will be required to substitute that item with an item which does meet the requirements of this solicitation at no additional cost to LMHA, whether or not such conflict is discovered by LMHA prior to contract award.

MATERIALS/EQUIPMENT

NAME OR BRAND

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_
6. \_\_\_\_\_
7. \_\_\_\_\_
5. \_\_\_\_\_
6. \_\_\_\_\_

***THIS FORM MUST BE COMPLETED AND SUBMITTED WITH THE OFFICIAL BID PACKAGE.***

Use additional Sheets If Necessary

**LIST OF PROPOSED SUBCONTRACTORS**

**LIST OF PROPOSED THIRD TIER SUBCONTRACTORS**

All proposed subcontractors who propose to employ third tier subcontractors must provide the below referenced information for each proposed third tier subcontractor. Proposed third tier subcontractors are subject to the approval of LMHA. **PROPOSED THIRD TIER SUBCONTRACTORS AND SUBCONTRACT AMOUNTS SHALL NOT BE CHANGED, NOR SHALL ANY ADDITIONAL THIRD TIER SUBCONTRACTORS BE EMPLOYED, WITHOUT THE EXPRESS WRITTEN CONSENT OF THE LOUISVILLE METRO HOUSING AUTHORITY.**

<b>Subcontractor:</b> _____ (From previous page)	<b>Category of Work:</b> _____
3 <sup>rd</sup> Tier Sub: _____	\$ Amount: _____
Is 3 <sup>rd</sup> Tier Sub an MBE: Yes or No	

<b>Subcontractor:</b> _____ (From previous page)	<b>Category of Work:</b> _____
3 <sup>rd</sup> Tier Sub: _____	\$ Amount: _____
Is 3 <sup>rd</sup> Tier Sub an MBE: Yes or No	

***THIS FORM MUST BE COMPLETED AND SUBMITTED  
WITH THE OFFICIAL BID PACKAGE.***

<b>Subcontractor:</b> _____ (From previous page)	<b>Category of Work:</b> _____
3 <sup>rd</sup> Tier Sub: _____	\$ Amount: _____
Is 3 <sup>rd</sup> Tier Sub an MBE: Yes or No	

<b>Subcontractor:</b> _____ (From previous page)	<b>Category of Work:</b> _____
3 <sup>rd</sup> Tier Sub: _____	\$ Amount: _____
Is 3 <sup>rd</sup> Tier Sub an MBE: Yes or No	

Use Additional Sheets If Necessary

AFFIDAVIT OF SUBBIDDER

**ONE FORM FOR EVERY PROPOSED SUBCONTRACTOR MUST BE COMPLETED AND SUBMITTED WITH THE OFFICIAL BID PACKAGE.**

\_\_\_\_\_, being first duly sworn, deposes and says:  
(Name of Officer or Partner)

That he is \_\_\_\_\_ of the firm of \_\_\_\_\_,  
(Officer or Partner) (Name of firm)

the party making a certain proposal or bid dated \_\_\_\_\_, 20\_\_\_\_

to \_\_\_\_\_ for subcontract work in connection  
(Name of Prime Contractor)

with the Louisville Metro Housing Authority's Project, located in Louisville, Kentucky, and the party proposed by said work as a result of said bid, that such 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 or affiant or of any other bidder, or to fix any overhead, profit or cost element of said bid price, or that of any other bidder, or to secure any advantage against the Louisville Metro Housing Authority or any person interested in the proposed contract; and that all statements in said proposal or bid are true.

Signature of Bidder (Officer or Partner)

\_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

Attest: \_\_\_\_\_  
(Signature of Notary)

**SEAL OF  
NOTARY**

My commission expires \_\_\_\_\_ 20\_\_\_\_\_.



**BIDDER'S QUALIFICATIONS**

The bidder presently has the following jobs under contract and bonded (list all projects currently under contract and bonded; use additional sheets if necessary):

1. \_\_\_\_\_  
(Project name/description) (Owner or Architect)

Contract Amount: \$ \_\_\_\_\_ % Complete: \_\_\_\_\_

Percentage completed with Bidder's own forces and nature of Bidder's involvement: \_\_\_\_\_

2. \_\_\_\_\_  
(Project name/description) (Owner or Architect)

Contract Amount: \$ \_\_\_\_\_ % Complete: \_\_\_\_\_

Percentage completed with Bidder's own forces and nature of Bidder's involvement: \_\_\_\_\_

3. \_\_\_\_\_  
(Project name/description) (Owner or Architect)

Contract Amount: \$ \_\_\_\_\_ % Complete: \_\_\_\_\_

Percentage completed with Bidder's own forces and nature of Bidder's involvement: \_\_\_\_\_

4. \_\_\_\_\_  
(Project name/description) (Owner or Architect)

Contract Amount: \$ \_\_\_\_\_ % Complete: \_\_\_\_\_

Percentage completed with Bidder's own forces and nature of Bidder's involvement: \_\_\_\_\_



**Instructions for Completing the Previous Participation Certificate, form HUD-2530**

Carefully read these instructions and the applicable regulations. A copy of those regulations published at 24 C.F.R. 200.210 to 200.245 can be obtained from the Multifamily Housing Representative at any HUD Office. Type or print neatly in ink when filling out this form. Mark answers in all blocks of the form. If the form is not filled completely, it will delay approval of your application.

Attach extra sheets as you need them. Be sure to indicate "Continued on Attachments" wherever appropriate. Sign each additional page that you attach if it refers to you or your record.

**Carefully read the certification before you sign it.** Any questions regarding the form or how to complete it can be answered by your HUD Office Multifamily Housing Representative.

**Purpose:** This form provides HUD with a certified report of all previous participation in HUD multifamily housing projects by those parties making application. The information requested in this form is used by HUD to determine if you meet the standards established to ensure that all principal participants in HUD projects will honor their legal, financial and contractual obligations and are acceptable risks from the underwriting standpoint of an insurer, lender or governmental agency. HUD requires that you certify your record of previous participation in HUD/USDA-FmHA, State and Local Housing Finance Agency projects by completing and signing this form, before your project application or participation can be approved.

HUD approval of your certification is a necessary precondition for your participation in the project and in the capacity that you propose. If you do not file this certification, do not furnish the information requested accurately, or do not meet established standards, HUD will not approve your certification.

**Note that approval of your certification does not obligate HUD to approve your project application, and it does not satisfy all other HUD program requirements relative to your qualifications.**

**Who Must Sign and File Form HUD-2530:**

Form HUD-2530 must be completed and signed by all principals applying to participate in HUD multifamily housing projects, including those who have no previous participation. The form must be signed and filed by all principals and their affiliates who propose participating in the HUD project. Use a separate form for each role in the project unless there is an identity of interest.

Principals include all individuals, joint ventures,

partnerships, corporations, trusts, non-profit organizations, any other public or private entity that will participate in the proposed project as a sponsor, owner, prime contractor, turnkey developer, managing agent, nursing home administrator or operator, packager, or consultant. Architects and attorneys who have any interest in the project other than an arm's length fee arrangement for professional services are also considered principals by HUD.

In the case of partnerships, all general partners regardless of their percentage interest and limited partners having a 25 percent or more interest in the partnership are considered principals. In the case of public or private corporations or governmental entities, principals include the president, vice president, secretary, treasurer and all other executive officers who are directly responsible to the board of directors, or any equivalent governing body, as well as all directors and each stockholder having a 10 percent or more interest in the corporation.

Affiliates are defined as any person or business concern that directly or indirectly controls the policy of a principal or has the power to do so. A holding or parent corporation would be an example of an affiliate if one of its subsidiaries is a principal.

**Exception for Corporations** - All principals and affiliates must personally sign the certificate except in the following situation. When a corporation is a principal, all of its officers, directors, trustees and stockholders with 10 percent or more of the common (voting) stock need not sign personally if they all have the same record to report. The officer who is authorized to sign for the corporation or agency will list the names and title of those who elect not to sign. However, any person who has a record of participation in HUD projects that is separate from that of his or her organization must report that activity on this form and sign his or her name. The objective is full disclosure.

**Exemptions** - The names of the following parties do not need to be listed on form HUD-2530: Public Housing Agencies, tenants, owners of less than five condominium or cooperative units and all others whose interests were acquired by inheritance or court order.

**Where and When Form HUD-2530 Must Be Filed:**

The original of this form must be submitted to the HUD Office where your project application will be processed at the same time you file your initial project application. This form must be filed with applications for projects, or when otherwise required in the situations listed below:

- Projects to be financed with mortgages insured under the National Housing Act (FHA).
- Projects to be financed according to Section 202 of the Housing Act of 1959 (Elderly and

Handicapped).

- Projects in which 20 percent or more of the units are to receive a subsidy as described in 24 C.F.R. 200.213.

- Purchase of a project subject to a mortgage insured or held by the Secretary of HUD.

- Purchase of a Secretary-owned project.

- Proposed substitution or addition of a principal or principal participation in a different capacity from that previously approved for the same project.

- Proposed acquisition by an existing limited partner of an additional interest in a project resulting in a total interest of 25 percent or more or proposed acquisition by a corporate stockholder of an additional interest in a project resulting in a total interest of 10 percent or more.

- Projects with U.S.D.A., Farmers Home Administration, or with state or local government housing finance agencies that include rental assistance under Section 8 of the Housing Act of 1937. For projects of this type, form HUD-2530 should be filed with the appropriate applications directly to those agencies.

**Review of Adverse Determination:** If approval of your participation in a HUD project is denied, withheld, or conditionally granted on the basis of your record of previous participation, you will be notified by the HUD Office. You may request reconsideration by the HUD Review Committee. Alternatively, you may request a hearing before a Hearing Officer. Either request must be made in writing within 30 days from your receipt of the notice of determination.

If you do request reconsideration by the Review Committee and the reconsideration results in an adverse determination, you may then request a hearing before a Hearing Officer. The Hearing Officer will issue a report to the Review Committee. You will be notified of the final ruling by certified mail.

**Specific Line Instructions:**

**Reason for submitting this Certification:** e.g., refinancing, change in ownership, change in management agent, transfer of physical assets, etc.

**Block 1:** Fill in the name of the agency to which you are applying. For example: HUD Office, Farmers Home Administration District office, or the name of a State or local housing finance agency. Below that, fill in the name of the city where the office is located.

**Block 2:** Fill in the name of the project, such as "Greenwood Apts." If the name has not yet been selected, write "Name unknown." Below that, enter the HUD contract or project identification number, the State or local housing finance agency project or contract number. Include all project or contract

identification numbers that are relevant to the project. Also enter the name of the city in which the project is located, and the ZIP Code.

**Block 3:** Fill in the dollar amount requested in the proposed mortgage, or the annual amount of rental assistance requested.

**Block 4:** Fill in the number of apartment units proposed, such as "40 units." For hospital projects or nursing homes, fill in the number of beds proposed, such as "100 beds."

**Block 5:** Fill in the section of the Housing Act under which the application is filed.

**Block 7:** Definitions of all those who are considered principals and affiliates are given above in the section titled "Who Must Sign and File...."

**Block 8:** Beside the name of each principal, fill in the appropriate role. The following are examples of possible roles that the principals may assume: Owner/Mortgagor, Managing Agent, Sponsor, Developer, General Contractor, Packager, Consultant, Nursing Home Administrator etc.

**Block 9:** Fill in the Social Security Number or IRS employer number of every principal listed, including affiliates.

**Instructions for Completing Schedule A:**

Be sure that Schedule A is filled-in completely, accurately and the certification is properly dated and signed, because it will serve as a legal record of your previous experience. All Multifamily Housing projects involving HUD/FmHA, and State and local Housing Finance Agencies in which you have previously participated must be listed. Applicants are reminded that previous participation pertains to the individual principal within an entity as well as the entity itself. A newly formed company may not have previous participation, but the principals within the company may have had extensive participation and disclosure of that activity is required.

**Column 2. All previous projects must be listed or your certification cannot be processed.** Include the name of all projects, project number, city where it is located and the governmental agency (HUD, USDA-FmHA or state or local housing finance agency) that was involved.

**Column 3.** List the role(s) as a principal, dates participated and if fee or identity of interest (IOI) with owners.

**Column 4.** Indicate the current status of the loan. Except for current loan, the date associated with the status is required. Loans under a workout arrangement are considered assigned. For all noncurrent loans, an explanation of the status is required.

**Column 5.** Explain any project defaults during your participation.

**Column 6.** Provide the latest Management Review (MOR) rating and Physical Inspection score.

**Certification:** After you have completed all other parts of

a telephone number. By providing a telephone number, HUD can reach you in the event of any questions.

If you cannot certify and sign the certification as it is printed because some statements do not correctly describe your record, use a pen to strike through those parts that differ with your record, and then sign and certify.

Attach a signed statement of explanation of the items you have struck out on the certification. Item 2e. relates to felony convictions within the past 10 years. If you are convicted of

a felony within the past 10 years, strike out 2e. and attach statement of explanation. A felony conviction will not necessarily cause your participation to be disapproved unless there is a criminal record or other evidence that your previous conduct or method of doing business has been such that your participation in the project would make it an unacceptable risk from the underwriting stand point of an insurer, lender or governmental agency.

The Department of Housing and Urban Development (HUD) is authorized to collect this information by law (42 U.S.C. 3535(d) and 24 C.F.R. 200.217) and by regulation at 24 CFR 200.210. This information is needed so that principals applying to participate in multifamily programs can become HUD-approved participants. The information you provide will enable HUD to evaluate your record with respect to established standards of performance, responsibility and eligibility. Without prior approval, a principal may not participate in a proposed or existing multifamily project. HUD uses this information to evaluate whether or not principals pose an unsatisfactory underwriting risk. The information is used to evaluate the potential principals and approve only individuals and organizations that will honor their legal, financial and contractual obligations.

**Privacy Act Statement:** The Housing and Community Development Act of 1987, 42 U.S.C. 3543 requires persons applying for a Federally-insured or guaranteed loan to furnish his/her Social Security Number (SSN). HUD must have your SSN for identification of your records. HUD may use your SSN for automated processing of your records and to make requests for information about you and your previous records with other public agencies and private sector sources. HUD may disclose certain information to Federal, State and local agencies when relevant to civil, criminal, or regulatory investigations and prosecutions. It will not be otherwise disclosed or released outside of HUD, except as required and permitted by law. You must provide all of the information requested in this application, including your SSN.

**Public reporting burden** for this collection of information is estimated to average 1 hour 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 agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number.

A response is mandatory. Failure to provide any of the information will result in your disapproval of participation in this HUD program.

**END OF SECTION E**

**SECTION M**

(v.5370)

**MBE, WBE & DBE, and SECTION 3 PROGRAMS  
CONTRACTUAL REQUIREMENTS, FORMS AND  
DOCUMENTS**

**LMHA Minority Business Enterprise (MBE), Women Business Enterprise (WBE), Disabled Business Enterprise (DBE) and Section 3 Programs**

All bidders must comply with the requirements of LMHA's MBE, WBE and DBE, and Section 3 Programs to be considered responsive.

**THE PARTICIPATION PERCENTAGE GOALS FOR THIS PROJECT ARE:**

**MBE - TWENTY-FIVE PERCENT (25%)**

**WBE - TEN PERCENT (10%)**

**DBE - ONE HALF OF ONE PERCENT (.5%)**

**SECTION 3 REGULATORY REQUIREMENTS:**

- **TWENTY-FIVE (25) PERCENT OR MORE OF THE TOTAL NUMBER OF LABOR HOURS WORKED BY ALL WORKERS EMPLOYED FOR THIS PROJECT WILL BE PERFORMED BY SECTION 3 WORKERS, AND**
- **FIVE (5) PERCENT OR MORE OF THE TOTAL NUMBER OF LABOR HOURS WORKED BY ALL WORKERS EMPLOYED FOR THIS PROJECT WILL BE PERFORMED BY TARGETED SECTION 3 WORKERS.**

**I. LMHA Minority Business Enterprise (MBE), Women Business Enterprise (WBE), and Disabled Business Enterprise (DBE) Programs**

**A. Generally**

This contract includes provisions regarding **MINORITY BUSINESS ENTERPRISE (MBE), WOMEN BUSINESS ENTERPRISE (WBE), and DISABLED BUSINESS ENTERPRISE (DBE)** solicitation and employment for firms wishing to participate in LMHA federally funded procurement activities that have potential for MBE, WBE, or DBE involvement in accordance with Executive Order 11625.

**FAILURE TO MEET THE MBE, WBE and DBE GOALS MAY HAVE A SERIOUS IMPACT ON THE EVALUATION OF A BIDDER'S RESPONSIVENESS!**

**B. Definitions**

The following definitions are used throughout the bid documents and Contract Documents:

1. **MBE** - Means Minority Business Enterprise. That is, a business which is fifty-one percent (51%), or more, owned by one or more persons who are members of a racial minority ("Racial Minority" is defined below), and in which such persons share economic interests and have proportionate control over management, interest in capital, and interest in earnings (minority/non-minority joint ventures are addressed elsewhere in these documents).
2. **WBE** - Means Women Business Enterprise. That is, a business which is at least fifty-one percent (51%) owned by one or more Women, or in the case of a publicly owned business, at least 51% of the stock is owned by one or more Women; is managed by, and the daily business operations are controlled by one or more Women; and is a domestic corporation with its home office located in the United States, which is not a branch or subsidiary of a foreign corporation, firm or other business.
3. **DBE** - Means Disabled Business Enterprise. That is, a business which is fifty-one percent (51%), or more, owned by one or more disabled individuals, or in the case of a publicly owned business, at least 51% of the stock is owned by one or more disabled individuals; is managed by, and the daily business operations are controlled by one or more disabled individual; and is a domestic corporation with its home office located in the United States, which is not a branch or subsidiary of a foreign corporation, firm or other business.
4. **MBE Certification** -- All MBE, WBE, and DBE firms must be certified through either the **Tri-State Minority Supplier Development Council**, the **Louisville and Jefferson County Human Relations Commission**, or must provide evidence satisfactory to LMHA of minority ownership.
5. **Racial Minority** - Also called "Minority," means any United States Citizen who is:
  - a) **African American** (racial classification 2) - All persons of origins in any black African racial group not of Hispanic origin; or,
  - b) **Hispanic American** (racial classification 3) - All persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish descended culture or origin, regardless of race; or,
  - c) **Asian American** (racial classification 4) - All persons having origins in any of the Pre-Magellanic peoples of the Far East, Southeast Asia, the Indian Sub-Continent, or the Pacific Islands; or,



- d) **American Indian or Native Alaskan** (racial classification 5) - All persons having origins in any of the Pre-Colombian peoples of North America, including Alaska, who maintain identifiable tribal affiliations, through membership and participation or community-identification; or,
  - e) **Hasidic Jew** (racial classification 6) - All persons having origins in the Hasidic Jewish culture, who maintain identifiable cultural affiliations, through membership and participation or community-identification.
6. **Disabled Person** - Means any person who has a physical or mental impairment which substantially limits one or more of such person's major life activities, or has a record of such an impairment, or is regarded as having such an impairment.
7. **Woman** - Means a person born with the physical and genetic characteristics commonly associated with the Women gender as currently defined by the professional medical community.

***Women and disabled persons are not "Minority" persons, for the purposes of this project, unless they also meet one of the above-indicated definitions of a "Racial Minority."***

**C. *MBE, WBE, and DBE Certification***

All MBE, WBE, and DBE firms must be certified through the **Tri-State Minority Supplier Development Council**, 600 W. Main Street, Louisville, Kentucky 40202, (502) 625-0159, or the **Louisville and Jefferson County Human Relations Commission**, 410 West Chestnut Street, Louisville, Kentucky 40202, (502) 574-3631. Certifications from other agencies will be reviewed on a case by case basis. A copy of the certification must be submitted upon request.

**Questions concerning MBE participation may be directed to the Louisville Metro Housing Authority's MBE/Section 3 Coordinator, Phil Reidinger, at (502) 569-4922 or [reidinger@LMHA1.org](mailto:reidinger@LMHA1.org).**

- 1. Certification through one or more of the listed agencies indicates that a firm meets or exceeds the certifying agency's requirements for MBE, WBE, or DBE certification, however, it should not be construed as implying LMHA approval of such MBE, WBE, or DBE. MBE, WBE, or DBE certification is not indicative of any qualification to perform the work for which the Bidder has proposed the MBE firm. It is the Bidder's inherent responsibility to ensure, **prior to submitting a bid**, that **ALL** proposed subcontractors are qualified.

**D. *MBE, WBE, and DBE Participation in LMHA Contracts***

This policy applies to LMHA projects for construction, demolition, renovation, abatement, and similar activities. HUD mandates that the primary procurement

responsibility of PHAs is to secure the best goods or services at the best price. However, MBE, WBE, and DBE participation is an integral and highly important part of LMHA's contracting activities. A minimum MBE, WBE, and DBE participation percentage goal has been established for this project and set forth above. The potential for achieving the MBE, WBE, and DBE participation percentage goal may depend upon the relative availability of MBE, WBE, and DBE firms in the categories of work anticipated. The Contract will be awarded to the responsible and responsive bidder who submits the lowest price, provided award serves LMHA's best interests.

1. **IN ORDER TO BE CONSIDERED RESPONSIVE**, a bidder must either meet the goals or provide evidence conclusively demonstrating that it made a strenuous, albeit unsuccessful, good faith effort to meet the goals. **Failure to aggressively respond to these requirements** is grounds for rejection of bid as non-responsive.
  
2. Law prohibits public housing agencies, including LMHA, from mandating MBE, WBE, or DBE participation. Bidders on LMHA projects are not obligated to use MBE, WBE, or DBE goods or services simply to meet the MBE, WBE, or DBE participation goal if the goods or services are available from non-MBE, non-WBE, or non-DBE sources at lower cost or using the MBE, WBE, or DBE would increase the cost of performance. Likewise, this policy shall not be construed as endorsing the representation of MBE, WBE, or DBE participation, when in fact a substantial portion of the participation proposed to be performed by an MBE, WBE, or DBE will be performed by the Contractor or by a third tier, non-MBE, non-WBE, or non-DBE subcontractor. For example:

If, on the *List of Proposed Subcontractors*, the bidder indicates that an MBE, WBE, or DBE will provide case work and trim carpentry services; and, the MBE, WBE, or DBE intends to, or commonly does, subcontract a substantial portion of its work to third tier non-MBE, non-WBE, or non-DBE subcontractors; such conditions would conflict with the intent of LMHA's MBE, WBE, and DBE Policy and the bidder's MBE, WBE, or DBE participation percentage would be reduced commensurately and its responsiveness reevaluated accordingly. The foregoing statements should not be construed as diminishing LMHA's commitment to MBE, WBE, or DBE participation. LMHA is committed to MBE, WBE, and DBE participation and expects contractors to employ MBE, WBE, and DBE firms to the fullest extent feasible.

***E. Calculating MBE Participation***

1. General -- An MBE's, WBE's, and DBE's participation in the Contract may count toward the goal to the extent that the MBE, WBE, or DBE performs Contract work with its own forces or through an MBE, WBE, or DBE subcontractor that uses its own forces. Work that an MBE, WBE, or DBE

subcontracts to a non-MBE, non-WBE, or non-DBE subcontractor does not count toward the goal. Any contractor, subcontractor, or joint venture, that claims MBE, WBE, or DBE participation may be required, at any time, to produce evidence that the portion of the total contract price claimed was actually awarded to, performed, or supplied by MBE, WBE, or DBE firms.

2. MBE, WBE, and DBE Qualifications -- For their participation to count toward the goal, MBE, WBE, and DBE firms must be currently certified as MBE, WBE, or DBE firms at the time of the bid opening. MBE, WBE, and DBE firms, to participate in the Contract, must meet all the responsiveness and responsibility requirements imposed on other contractors and subcontractors under the Contract.
3. Commercial Utility -- The participation of an MBE, WBE, or DBE may count toward the goal only if the MBE, WBE, or DBE performs a commercially useful function in executing the Contract work.
  - a) An MBE, WBE, or DBE firm's function may be commercially useful if it includes direct, day-to-day responsibility for significant work of the Contract and the MBE, WBE, or DBE actually fulfills its responsibilities by performing, managing, and supervising that work.
  - b) Responsibility for negotiating prices, determining quality and quantities, ordering, installing, and paying for materials and supplies involved in the MBE's, WBE's, or DBE's portion of the Contract work may, also, indicate commercial utility.
  - c) An MBE's, WBE's, or DBE's function is not commercially useful if the firm's actual role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to present the appearance of MBE, WBE, or DBE participation. In determining whether a firm is an extra participant, LMHA may examine similar transactions, contracts, or projects, particularly those in which MBE, WBE, or DBE firms do not participate.
  - d) An MBE, WBE, or DBE that does not perform, or bear and exercise responsibility for, at least 12 percent of the total cost of its Contract work with its own forces, or that subcontracts a greater portion of its Contract work than would be expected under normal industry practice for the type of work involved, is preemptively not performing a commercially useful function. An MBE, WBE, or DBE may challenge the presumption that it is not performing a commercially useful function. Because no privity can exist between LMHA and a subcontractor, MBE, WBE, and DBE subcontractors must assert such challenges through the prime contractor.
  - e) LMHA may evaluate industry practices, the amount and type of work awarded to the MBE, WBE, or DBE, and any other factors LMHA

deems appropriate, to determine whether a function is commercially useful.

4. MBE, WBE, or DBE Prime Contractors -- MBE, WBE, or DBE firms are under the same obligations as any other prime contractor with respect to LMHA's MBE, WBE, or DBE goals. To receive MBE, WBE, or DBE participation credit, an MBE, WBE, or DBE prime contractor must perform at least 12% of the Contract work with its own forces. MBE, WBE, or DBE prime contractors may be credited with MBE, WBE, or DBE participation to the extent that they perform the Contract work with their own forces and employ MBE, WBE, or DBE subcontractors pursuant to the provisions of this policy. For example:

If an MBE, WBE, or DBE prime contractor will perform \$12,000-worth of work with its own forces, and the total contract price is \$100,000, MBE, WBE, or DBE participation would be 12%. Thus, if the MBE, WBE, or DBE participation goal was 20%, the MBE, WBE, or DBE prime contractor would be short of the goal and required to either obtain another 8% participation or demonstrate fruitless good faith efforts to obtain another 8% and request a waiver of that portion of the goal.

5. Non-MBE, WBE, or DBE Prime Contractors - may be credited with MBE, WBE, or DBE participation based on the dollar value of that portion of the total contract work subcontracted to MBE, WBE, or DBE firms and performed by such MBE, WBE, or DBE firms using their own forces or through third tier MBE, WBE, or DBE subcontractors that use their own forces. For example:

If a non-MBE, WBE, or DBE prime contractor subcontracts \$15,000-worth of the total contract work to one or more MBE, WBE, or DBE subcontractors, and the total contract price is \$75,000, MBE, WBE, or DBE participation would be 20% ( $\$15,000/\$75,000$ ).

6. MBE, WBE, or DBE Subcontractors -- To receive MBE, WBE, or DBE participation credit, an MBE, WBE, or DBE subcontractor must perform at least 12% of its portion of the Contract work with its own forces. An MBE, WBE, or DBE subcontractor's participation in the Contract counts toward the goal to the extent that the MBE, WBE, or DBE performs Contract work with its own forces and through third-tier MBE, WBE, or DBE subcontractors that use their own forces. Work that an MBE, WBE, or DBE subcontractor subcontracts to a non-MBE, WBE, or DBE subcontractor does not count toward the goal. For example:

If an MBE, WBE, or DBE firm is subcontracted to fabricate and supply equipment for this project, at least 12% of the fabrication must be performed by the MBE, WBE, or DBE firms' own forces, in its own facility.

- a) A prime contractor shall receive no credit for the participation of an MBE, WBE, or DBE subcontractor unless the prime contractor, before the start of work, delivers to LMHA a fully executed original

counterpart of the agreement between the prime contractor and the MBE, WBE, or DBE subcontractor.

- b) Such agreement must bear the prime contractor's and MBE, WBE, or DBE subcontractor's notarized signatures, must state the price the MBE, WBE, or DBE will receive for its work, and must include a reasonably detailed description of the work the subcontractor will perform.

7. Joint Ventures - Joint ventures between an MBE, WBE, or DBE and a non-MBE, WBE, or DBE, bidding and performing as a joint venture prime contractor or sub-contractor, may count toward the goal to the extent of the dollar value of the Contract work performed with the MBE, WBE, or DBE party's forces. For example:

If the joint venture will perform \$35,000-worth of the total contract work with its joint forces, and the MBE, WBE, or DBE party's forces will perform \$15,000-worth of that work, and the total contract price is \$100,000, MBE, WBE, or DBE participation would be 15% ( $\$15,000/\$100,000$ ).

If, in the preceding example, the joint venture was the prime contractor and employed MBE, WBE, or DBE, WBE, or DBE subcontractors to perform \$10,000-worth of the remaining total contract work, MBE, WBE, or DBE participation would be 25% ( $(\$15,000 + \$10,000)/\$100,000$ ).

- a) A joint venture shall receive no MBE, WBE, or DBE participation credit unless, before the start of work, it delivers to LMHA a fully executed original counterpart of the joint venture agreement.
- b) Such agreement must bear the notarized signatures of all parties to the agreement, must state the sum each party will receive for its work, and must include a reasonably detailed description of the work each party will perform.
- c) To be counted at all, the MBE, WBE, or DBE party's portion of the dollar value of the work must be distinct and clearly defined.

8. Materials and Supplies - Any contractor or subcontractor may, under certain conditions, claim MBE, WBE, or DBE participation credit for MBE, WBE, or DBE suppliers who provide materials for the Contract work. MBE, WBE, or DBE supplier participation is based, generally, on the dollar value of the goods purchased from the MBE, WBE, or DBE supplier. For example:

Subject to the conditions following this example, if a non-minority prime contractor purchases \$20,000-worth of supplies from an MBE, WBE, or DBE supplier, and the total contract price is \$100,000, MBE, WBE, or DBE participation would be 20% ( $\$20,000/\$100,000$ ). Materials and supplies purchased from MBE, WBE, or DBE firms for use in the Contract may count toward the goal as follows:

- a) If the materials or supplies are purchased from an MBE, WBE, or DBE manufacturer, 100 percent of the cost of the materials or supplies may count toward the goal.
    - (1) For the purposes of these provisions, a “manufacturer” is a business entity that operates or maintains a factory or production facility that routinely produces, on its premises and in the normal course of its business, materials, supplies, articles or equipment required under the Contract.
  - b) Materials and supplies purchased from MBE, WBE, or DBE firms who are regular retail or wholesale dealers will only be counted toward the goal at 60 percent of their cost.
    - (1) For the purposes of these provisions, a “regular retail or wholesale dealer” is a business entity that:
      - (a) owns, operates, or maintains a store, warehouse, or other establishment in which materials, supplies, articles or equipment required under the Contract are bought, kept in stock, and regularly sold or leased to the public in the normal course of business; and
      - (b) is an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the items required under the Contract.
    - (2) A person may be a regular retail or wholesale dealer in such bulk items as petroleum products, steel, cement, gravel, stone, or asphalt without owning, operating, or maintaining a place of business as described above, if the person owns and operates distribution equipment for distribution of such products.
    - (3) Long-term lease agreements by which a regular retail or wholesale dealer supplements its own distribution equipment may be acceptable as to the goal, but ad hoc or contract-by-contract agreements for that purpose are not.
    - (4) Packagers, brokers, manufacturers’ representatives, and other persons who arrange or expedite transactions are not regular retail or wholesale dealers within the meaning of these provisions. Such persons’ or entities’ participation shall not count toward the MBE, WBE, or DBE or DBE goal.
9. Fees or commissions -- charged by an MBE, WBE, or DBE that is neither a manufacturer nor a regular retail or wholesale dealer, for assistance in procuring materials or supplies, or for fee or transportation charges for delivering materials or supplies required under the Contract, may count

toward the goal, provided LMHA finds such fees or commissions are reasonable and not excessive in comparison to fees customarily allowed for similar services. No portion of the cost of the materials and supplies themselves shall count toward the goal under these circumstances, unless they qualify under one of the other provisions of this subsection.

10. Professional Services -- Fees or commissions charged by an MBE, WBE, or DBE for providing a bona fide service, such as professional, technical, consultant, or managerial services, or for providing bonds or insurance specifically required for the performance of the Contract, may count toward the goal, if LMHA finds them reasonable and not excessive in comparison to fees customarily allowed for similar services.
11. Any contractor, subcontractor, or joint venture that claims MBE, WBE, or DBE participation may, at any time, be required to produce evidence that the portion of the total contract price claimed was actually awarded to, and performed or supplied, by MBE, WBE, or DBE firms.

***F. Required Forms***

Bidders must submit the following two (2) forms, among others, as a part of the bid proposal, regarding proposed employment of MBE, WBE, or DBE firms on this project:

1. SCHEDULE OF MBE, WBE, AND DBE PARTICIPATION
  - a) The Bidder shall list, on this form, all MBE, WBE, or DBE firms proposed to perform as prime contractors or subcontractors for this project; the type of work to be performed; the anticipated start and completion dates for the work to be performed; and the agreed upon price for the work.
  - b) The Bidder, by completing this form, represents that, if awarded this contract, it will enter into formal contracts (provided each MBE, WBE, or DBE is accepted, in writing, by LMHA), in the amounts indicated, with the MBE, WBE, or DBE firms listed on this form.
2. MBE, WBE AND DBE WAIVER REQUEST INFORMATION SHEET
  - a) In the event the Bidder is unable to achieve the MBE, WBE, or DBE participation percentage goal, the Bidder shall list on this form all MBE, WBE, or DBE firms contacted and/or considered, but not proposed to participate in this project, and the reasons they are not proposed to participate.

**FAILURE TO SATISFY THE MBE, WBE, or DBE PARTICIPATION PERCENTAGE GOALS MAY HAVE A SIGNIFICANT ADVERSE IMPACT ON A BIDDER'S RESPONSIVENESS!**

***G. Evidence of Responsiveness***

As evidence that the Bidder has made a significant good faith effort to involve MBE, WBE, or DBE firms in this project, the Contractor, upon request, shall make available to the Louisville Metro Housing Authority such documentation as is described below.

Bidders that fail to meet MBE, WBE, or DBE goals and fail to demonstrate sufficient good faith efforts to merit a waiver, may be required to forfeit their bid guaranty as agreed liquidated damages.

***H. Waiver of MBE, WBE, or DBE Goals***

Minority Business Enterprise participation is a priority objective of this agency and LMHA's MBE, WBE, and DBE policy applies to all construction and abatement contracts. If, because of extreme circumstances, a bidder cannot meet the MBE, WBE, or DBE participation percentage goal, LMHA may grant a full or partial waiver of the goal. LMHA will, however, grant a waiver of the MBE, WBE, or DBE participation percentage goal only upon receipt of persuasive evidence that a bidder has made diligent, albeit ultimately unsuccessful, efforts to meet the MBE, WBE, or DBE participation percentage goal (as further explained below).

1. **Bidders must make every reasonable effort to meet the MBE, WBE, or DBE goals.**

Limited or merely formalistic efforts are not considered "good faith" efforts. The bidder must demonstrate that, given all relevant circumstances, it actively and aggressively endeavored to meet the MBE, WBE, or DBE goals.

2. **In the event a bidder finds that it cannot fully satisfy the MBE, WBE, or DBE goals of this solicitation, the bidder must submit a written request for a full or partial waiver of the goals and receive approval prior to submission of bid. All request for waivers for MBE, WBE, and DBE must be submitted with the "2<sup>nd</sup> Day Submission" documents after the bid opening.**

The "MBE, WBE and DBE Waiver Request Information Sheet" can be found on Page 16 of this Section.

**IF THE BIDDER WILL NOT USE ANY SUBCONTRACTORS OR HAS MET THE FULL MBE, WBE, AND DBE GOALS, IT IS NOT NECESSARY TO REQUEST A WAIVER.**

- a) The written request for a waiver must explain how the bidder views and evaluates the subcontractable components of a project and why the bidder was unable to attain the MBE, WBE, or DBE participation percentage goal. The request must also include detailed narrative statements describing the bidder's "good faith" efforts to secure MBE, WBE, and DBE participation. If bidder has requested such waiver from LMHA within the last five (5) years, submit copies of all waiver requests.



3. Examples of "good faith efforts" to attain the MBE, WBE, or DBE goal include, but are not necessarily limited to:
  - a) **Attending scheduled meetings**, regarding the project.
  - b) **Providing written notice**, (preferably certified mail) to a reasonable number of MBE, WBE, and DBE firms requesting bids. *A reasonable number means at least as many MBE, WBE, or DBE firms as non-MBE, WBE, or DBE firms, in each trade category, must be contacted.* Copies of certified letters sent to MBE, WBE, or DBE firms requesting bids, and original, signed, receipts, or copies of telegrams soliciting bids from MBE, WBE, or DBE firms, indicating the date of delivery, would be considered evidence of such efforts.
  - c) **Allowing sufficient time** (five working days, or more, as time permits) **for MBE, WBE, and DBE firms to respond** to a written notice. *Sufficient time means initiating contact with MBE, WBE, or DBE firms at least as far in advance of the bid date as contact is initiated with non-MBE, WBE, or DBE firms.* Original responses from MBE, WBE, or DBE firms indicating the reasons why they do not wish to participate in this project and bids received from MBE, WBE, or DBE firms on those firm's letterhead or standard bid forms would be considered evidence of such efforts.
  - d) **Following up** written notification by **telephone or other means**. Date-stamped copies of telephone conversation records and faxed letters would be considered evidence of such efforts.
  - e) **Contacting MBE, WBE, and DBE assistance agencies** and organizations (see Section J of Official Bid Package for lists) and the LMHA's MBE/Section 3 Coordinator at (502) 569-4922, for assistance in locating qualified MBE, WBE, or DBE firms. Date-stamped copies of telephone conversation records and faxed or mailed letters would be considered evidence of such efforts.
  - f) **Selecting portions of the work to be performed by MBE, WBE, and DBE firms** in order to increase the likelihood of meeting the MBE, WBE, or DBE goals. Documentation demonstrating that extra effort was made to solicit MBE, WBE, or DBE bids for categories of work in which MBE, WBE, or DBE firms are particularly well represented in the geographical area of the project would be considered evidence of such efforts.
  - g) **Providing MBE, WBE, and DBE firms with adequate information about the project** when requesting quotations (i.e., identifying potential subtrades involved in the project and identifying a potential dollar range for those subtrades). Copies of certified letters sent to MBE, WBE, and DBE firms, and original, signed, receipts, date-stamped copies of telephone records and faxed or mailed follow-up

letters, or copies of telegrams sent to MBE, WBE, and DBE firms, would be considered evidence of such efforts.

- h) **Advertising in general circulation media (e.g., Courier-Journal), and media aimed at minorities (e.g., Louisville Defender)**, at least 20 days before bids are due. Or, if 20 days are not available, publication for a shorter, but maximum available, period is acceptable. Copies of legal advertisements published as an attempt to obtain MBE, WBE, and DBE involvement would be considered evidence of such efforts.
  - i) **Making efforts to assist MBE, WBE, or DBE firms** in obtaining bonding, credit, or insurance. Date-stamped copies of telephone conversation records and faxed or mailed letters to MBE, WBE, or DBE firms and/or bondsmen, creditors, or insurers would be considered evidence of such efforts.
  - j) **Making efforts to meet and negotiate** with potential MBE, WBE, and DBE Bidders prior to the bid opening. Copies of certified letters sent to MBE, WBE, and DBE firms and original, signed, receipts, date-stamped copies of telephone records and faxed or mailed follow-up letters, or copies of telegrams sent to MBE, WBE, and DBE firms, would be considered evidence of such efforts.
  - k) **Efforts made by the Bidder to expand its search** for MBE, WBE, and DBE firms, beyond the usual geographic boundaries. Documentation demonstrating that such efforts were made would be considered evidence of such efforts.
4. LMHA reserves the right to examine the Bidder's bid preparation materials, including all requests for bids the Bidder issued to potential subcontractors, the Bidder's bid calculation work sheets, and the Bidder's telephone records, notes, and any other information LMHA believes may be helpful in verifying the Bidder's assertions.
5. LMHA's "MBE, WBE and DBE Waiver Request" review protocol includes the following steps:
- a) The contractor's "MBE, WBE AND DBE WAIVER REQUEST INFORMATION SHEET" and supporting documentation will be reviewed by the MBE, WBE, DBE and Section 3 Coordinator and the appropriate LMHA Directors overseeing the solicitation. The Waiver Request Reviewers Team will collectively make a determination for the appropriate waiver action.
  - b) The MBE, WBE, DBE and Section 3 Coordinator will send the written recommendation from the Waiver Request Reviewers Team to the Deputy Executive Director. If necessary, the Deputy Executive Director will schedule a meeting with the Waiver Request Reviewers Team for additional dialogue regarding the suggested waiver action.

- c) The Deputy Executive Director will forward its and the Waiver Request Reviewers Team's recommendations to the Executive Director for final review and approval. This recommendation will include "MBE, WBE AND DBE WAIVER REQUEST INFORMATION SHEET" and supporting documentation, and a transmittal signature sheet.
  - d) The MBE, WBE, DBE and Section 3 Coordinator will send a written notification regarding the "MBE, WBE AND DBE WAIVER REQUEST INFORMATION SHEET" decision to the contractor or offeror.
6. The bidder's **delivery of a request** for waiver **does not**, in and of itself, **ensure** that such a **request will be granted**.
- a) A full or partial waiver may be granted only after the Louisville Metro Housing Authority has thoroughly reviewed the project's MBE, WBE, or DBE participation potential. Documentation supporting a request for waiver, if such evidence exists, may be presented to the Louisville Metro Housing Authority's Executive Director for a final decision.
  - b) If a waiver is granted, and there are no other impediments to the award of the contract, the contract award process may proceed.
  - c) If a waiver is not granted, or if no request for waiver is received, and the bid is otherwise acceptable, the Louisville Metro Housing Authority may require the Bidder to satisfy the total MBE, WBE, and DBE goals at no additional cost to the Louisville Metro Housing Authority or may deem the Bidder non-responsive.

***I. Replacing MBE, WBE, or DBE Subcontractors***

- 1. Any contractor who proposes to replace a proposed or accepted MBE, WBE, or DBE subcontractor must maintain the MBE, WBE, or DBE participation percentage that existed prior to the replacement of that subcontractor, or, if possible, achieve an even greater MBE, WBE, or DBE participation percentage. If the contractor finds it cannot satisfy these requirements, it must submit a request for waiver of the MBE, WBE, or DBE participation percentage goal, as prescribed above.
- 2. LMHA reserves the right to conduct compliance reviews on minority and non-minority contractors that utilize MBE, WBE, or DBE subcontractors, or perform as joint ventures. Contractors shall maintain records of all MBE, WBE, or DBE participation for three (3) years following completion of the project. Failure on the part of the contractor to comply with these requirements could result in the withholding of payment, termination of the Contractor's right to proceed with the work, legal fines, imprisonment, or all the above.

*J. Assistance to MBE, WBE, and DBE firms*

The Louisville Metro Housing Authority actively works to assist minority vendors and contractors/subcontractors. LMHA is committed to providing equal opportunities for Minority Business Enterprises (MBE, WBE, and DBE firms).

Such opportunities are advertised through newsletters and newspapers, including minority newspapers, minority purchasing councils, and the Department of Housing and Urban Development.

When requested, LMHA will provide special assistance, to the fullest extent possible, to MBE, WBE, and DBE firms, by providing instruction on the preparation of bids, MBE, WBE, and DBE policy, and any other requirements related to LMHA's MBE, WBE, and DBE program, in connection with activities including but not necessarily limited to:

1. Architectural, Engineering, and similar Professional Services contracts;
2. Construction and Maintenance contracts;
3. Purchase Contracts; and,
4. Bank Deposits.

MBE, WBE, or DBE firms, and others, seeking assistance in these areas should first contact:

1. Tri-State Minority Supplier Development Council, 600 West Main Street, Louisville, KY 40202.  
Contact: (502) 625-0159
2. Kentucky Cabinet for Economic Development, Department of Existing Business & Industry, Minority Business Division, 2201 Capital Plaza Tower, Frankfort, KY 40601.  
Contact: (502) 564-2064
3. Louisville and Jefferson County Human Relations Commission, 410 West Chestnut Street, Suite 300A, Louisville, KY 40202.  
Contact: (502) 574-3631

<p><b>NOTE: The following forms on pages 15-23 shall be completely filled out and submitted with the bid.</b></p>
---

**SCHEDULE OF MBE, WBE, AND DBE PARTICIPATION**

\_\_\_\_\_  
(Name of Bidder)

For each MBE, WBE, or DBE firm proposed to participate in this project, list the firm's name, business address, category of work, percentage of total bid to be performed by the firm, and the firm's Federal Tax ID number in the space provided below. Use additional sheets if necessary.

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

The combined total of MBE participation proposed is \_\_\_\_\_ % of the total bid amount.  
The combined total of WBE participation proposed is \_\_\_\_\_ % of the total bid amount.  
The combined total of DBE participation proposed is \_\_\_\_\_ % of the total bid amount.

In addition to completion of this form, a Bidder who has met the MBE, WBE, and DBE goals must submit a copy of the signed sub-bid from each MBE, WBE, and DBE subcontractor listed with its bid.

The bidder, if successful, agrees to enter into a formal contract with each of the above referenced firms, in the amounts indicated, provided those firms are acceptable to the Louisville Metro Housing Authority.

**NOTE:** With respect to all MBD, WBE and DBE firms, whether proposed or otherwise, Bidder [or Contractor] hereby certifies that it and its fiduciaries and affiliates (i) have engaged in a fair and impartial manner with all such firms; (ii) have not utilized any such firms to obtain any unfair advantage; (iii) have made no negligent or fraudulent representations or misrepresentations to or about such firms; (iv) and there exist no side deals or undisclosed contracts or agreements that would otherwise frustrate the purpose of contracting with any MBD, WBE or DBE firms.

Signature/Title: \_\_\_\_\_ Date: \_\_\_\_\_

**NOTE: Failure to complete and submit THIS form or comply with directions therein is ground for bid rejection.**

**MBE, WBE AND DBE WAIVER REQUEST INFORMATION SHEET**

Contractor's Name: \_\_\_\_\_

Business Address, City, State and Zip Code: \_\_\_\_\_

\_\_\_\_\_

Telephone Number: \_\_\_\_\_

Contract Person: \_\_\_\_\_

**Project Name and Proposal Number:** \_\_\_\_\_

**WAIVER REQUESTED FOR:** (fill in as needed for any that apply)

**MBE:** \_\_\_\_\_ **WBE:** \_\_\_\_\_ **DBE:** \_\_\_\_\_  
**% Requested:** \_\_\_\_\_ **% Requested:** \_\_\_\_\_ **% Requested:** \_\_\_\_\_

**NOTE:** The "MBE, WBE and/or DBE waiver percentages" requested, when added with the "MBE, WBE and/ or DBE percentages" proposed on Page 15, must add up to the percentage needed for each category (MBE is 25%; WBE is 10%; and DBE is 0.5%).

**STEPS TAKEN TO MEET GOALS:** (must choose one for respond for each "step":

**PROVIDE EVIDENCE FOR EACH STEP TAKEN.**

	<b>YES</b>	<b>NO</b>
1   Provide written notice to potential bidders		
2   Allowed sufficient time to respond		
3   Follow-up written notification to potential bidders		
4   Contacting MBE, WBE, and DBE Agencies		
5   Selecting portions of work to be performed by MBE, WBE and DBE		
6   Advertising in general circulation media		
7   Marking efforts to meet and negotiate with potential MBE, WBE and DBE bidders		

**PROVIDE A WRITTEN NARRATIVE OF THE "GOOD FAITH EFFORTS" TAKEN AND RESULTS:** (Use Additional Sheets if Necessary):

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

**NOTE:** With respect to all MBE, WBE and DBE firms, whether proposed or otherwise, Bidder [or Contractor] hereby certifies that it and its fiduciaries and affiliates (i) have engaged in a fair and impartial manner with all such firms; (ii) have not utilized any such firms to obtain any unfair advantage; (iii) have made no negligent or fraudulent representations or misrepresentations to or about such firms; (iv) and there exist no side deals or undisclosed contracts or agreements that would otherwise frustrate the purpose of contracting with any MBE, WBE or DBE firms.

Signature/Title: \_\_\_\_\_ Date: \_\_\_\_\_

**SUMMARY LIST OF PROPOSED SUBCONTRACTORS**

The following list of proposed subcontractors is required to be submitted with each bidder's proposal, in accordance with the requirements of Section C of this solicitation. All subcontractors are subject to the approval of LMHA. **PROPOSED SUBCONTRACTORS AND SUBCONTRACT AMOUNTS SHALL NOT BE CHANGED, NOR SHALL ANY ADDITIONAL SUBCONTRACTORS BE EMPLOYED, WITHOUT THE EXPRESS WRITTEN CONSENT OF THE LOUISVILLE METRO HOUSING AUTHORITY.**

<u>NAME OF SUBCONTRACTOR</u>	<u>CATEGORY OF WORK</u>	<u>\$ Amount</u>
1. _____		
2. _____		
3. _____		
4. _____		
5. _____		
6. _____		

(Employer ID numbers must be provided upon request)  
*Use Additional Sheets If Necessary*

**THIS FORM MUST BE COMPLETED AND SUBMITTED  
WITH THE OFFICIAL BID PACKAGE.**

---

**NOTE: WITHIN TWO WEEKS OF CONTRACT EXECUTION, THE GENERAL CONTRACTOR SHALL SUBMIT, FOR THIS CONTRACT, COPIES OF ALL SUBCONTRACTOR CONTRACTS OR WRITTEN AGREEMENTS TO THE LOUISVILLE METRO HOUSING AUTHORITY**

---

**NOTE: If third tier subcontracts are intended, the information on the following page must be provided for each proposed subcontractor.**

**NOTE: With respect to all MBE, WBE and DBE firms, whether proposed or otherwise, Bidder [or Contractor] hereby certifies that it and its fiduciaries and affiliates (i) have engaged in a fair and impartial manner with all such firms; (ii) have not utilized any such firms to obtain any unfair advantage; (iii) have made no negligent or fraudulent representations or misrepresentations to or about such firms; (iv) and there exist no side deals or undisclosed contracts or agreements that would otherwise frustrate the purpose of contracting with any MBE, WBE or DBE firms.**

Signature/Title: \_\_\_\_\_ Date: \_\_\_\_\_

**NON-MBE, WBE, DBE SUBCONTRACTOR/SUPPLIER FORM**

**ONE FORM FOR EVERY PROPOSED NON-MBE, WBE, AND DBE  
SUBCONTRACTOR/SUPPLIER MUST BE COMPLETED AND SUBMITTED WITH  
THE OFFICIAL BID PACKAGE.**

In addition to conforming to all other requirements of the Invitation to Bid, to be considered responsive, a Bidder must submit this form, fully completed, for every non-minority business enterprise subcontractor/supplier proposed.

Company Name, Address, Telephone Number, and Point of Contact:

---

---

---

---

---

Dollar Value of Proposed Subcontract/Purchase Order:

\$ \_\_\_\_\_

Description of Proposed Services and/or Materials:

---

---

---

---

---

---

---

The penalty for making false statements in offers (10 year imprisonment and/or \$10,000 fine) is prescribed in 18 U.S.C. 1001.

**NOTE: Failure to complete and submit THIS form or comply with directions therein is ground for bid rejection.**



**EMPLOYMENT DEMOGRAPHICS**

This form to be completed and submitted by the prime contractor and every proposed subcontractor. Failure to complete and submit this form is grounds for rejection.

Company Name: \_\_\_\_\_  Contractor  Subcontractor

1 Last Name	2 First Name	3 Job Title	4 Date Hired	5 Description of Work	6 Race	7 Sec 3

Certified By: \_\_\_\_\_  
(Authorized Officer's Signature)

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

In witness whereof, I hereunto set my hand and official seal:

\_\_\_\_\_  
(Notary's Signature)

\_\_\_\_\_  
(Notary's Printed Name)

My commission expires \_\_\_\_\_.

**AFFIX  
NOTARY'S  
SEAL**

See the following page for instructions for completing this form.

**The penalty for making false statements in offers (10 years imprisonment and/or \$10,000 fine) is prescribed in 18 U.S.C. 1001.**

**Instructions for Completing EMPLOYMENT DEMOGRAPHICS Form**

1. **Duty to Submit Form** -- Every bidder shall complete the *Employment Demographics* form (hereafter, the Form). Every bidder shall ensure that each of its sub-bidders also completes the Form. The Bidder shall submit fully executed Forms for itself and each sub-bidder, with its bid, in the package labeled "Supplemental Bid Information."
2. **Space Constraints/Additional Forms** -- If the space provided on a single Form is insufficient to list every employee (see definition below) of the bidder or sub-bidder completing the Form (hereafter, the Entity), such Entity shall use additional Forms. Said Entity shall, however, ensure that each separate Form is dated, signed, and notarized. Each Official Bid Package contains one (1) blank copy of the Form. From that, the Bidder shall make as many copies as needed to ensure compliance with the preceding requirements.
3. **Completing the Form** -- The Form is divided into seven numbered columns. Write the appropriate name and check the appropriate box at the top of the Form, then complete each column as follows:

**Columns 1 and 2** -- Identify, by name, each and every employee, officer, principal, and agent of the Entity. Identify every such person (hereafter, the employee), whether or not intended to perform work under or related to this Contract. Be careful to list each employee by last name first. List only proper, legal names, do not list nicknames. Do not list names of persons the Entity employs as independent contractors. If the employee routinely works less than 37 and 1/2 hours per week, write the letter "P" in the left margin adjacent to the employee's name.

**Column 3** -- State the employee's job title (e.g., secretary, laborer, carpenter, CEO). Use the job titles the Entity actually, routinely uses to describe the employee.

**Column 4** -- State the date upon which the Entity hired the employee. If the employee has left the Entity's employ in the past and returned to work for the Entity again, state the most recent date of hire.

**Column 5** -- Describe the nature of the work the employee routinely performs for the Entity. For example, if the employee's job title is "Laborer," the employee's work may be described as "performs unskilled physical labor." Or, a "Secretary" might be described as doing "filing, typing, etc." Use additional lines if necessary, to provide a clear description of an employee's duties.

**Column 6** -- State the employee's race. Use the racial classifications provided in page 2, Section M. Use the number 1 for Caucasian. If you write "other" or a similar classification in Column 6, attach a signed statement explaining in detail exactly what is meant by such description. Attach a separate signed statement for each employee so described, tailoring each such statement to the employee to whom it refers.

**Column 7** -- State if the employee is certified as a Section 3 Workers (as per II, A, 1.(g)) with "S" or Targeted Section 3 Workers (as per II, A, 1.(j)) with "T" or leave blank if there is no Section 3 certification. Documentation of Section 3 status must be provided upon request.

4. Each Form shall be signed and dated by an authorized officer of the Entity and shall be notarized.

**AGREEMENT TO NOTIFY LMHA OF JOB OPENINGS**

(This form to be completed and submitted by prime contractor and all subcontractors.)

By my signature below, \_\_\_\_\_ (hereafter "the Company"), agrees to the  
(Company's Name)  
following conditions:

1. The Company shall, if awarded the contract for which this Bid is offered, give LMHA notice of any and all job openings that may arise at the Company during the course of that contract.
2. Such notice shall be in writing and mailed, first class, to LMHA via the U.S. Postal Service within two business days after such opening arises. The notice shall describe the minimum qualifications and requirements of the job, the nature of the work, the expected pay rate or range, the place and manner of submitting applications, the name, address and telephone number of the person to contact to obtain an application or additional information, and the date by which applications must be submitted.
3. LMHA will notify its residents of such job openings and encourage qualified residents to submit applications for employment.
4. The Company will, if it receives an application from a qualified LMHA resident, give that application and applicant the same opportunity and consideration for the job as would be given any other, similarly qualified applicant and, if such applicant is the most qualified applicant and there is no bar to employing the applicant, the Company will hire the applicant for the job if it hires anyone for the job.

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

By: \_\_\_\_\_  
(Authorized Officer's Signature)

In witness whereof, I hereunto set my hand and official seal:

\_\_\_\_\_  
(Notary's Signature)

\_\_\_\_\_  
(Notary's printed name)

My commission expires \_\_\_\_\_.

**AFFIX  
NOTARY'S  
SEAL**

**STATEMENT OF INTENT TO PERFORM AS A  
MINORITY BUSINESS ENTERPRISE CONTRACTOR/SUBCONTRACTOR**

(Separate form required for each MBE, WBE, and DBE prime or sub-bidder)

Name of Prime Bidder: \_\_\_\_\_

Name of MBE firm completing this form: \_\_\_\_\_

The undersigned wishes to perform work in connection with the above referenced project as:

Individual       Corporation       Partnership       Joint Venture

The undersigned hereby confirms its status as a Minority Business Enterprise as defined by LMHA and that **a copy of the certification from the agency specified in Section C of this solicitation, or other evidence, is attached hereto.**

The undersigned intends to perform the following work in connection with this project (specify, in detail, the work to be performed):

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

**Bid amount to be entered by sub-contractor \$** \_\_\_\_\_

The undersigned MBE projects its start and completion dates for the work as follows:

Project Start: \_\_\_\_\_ Project Completion: \_\_\_\_\_

BY: \_\_\_\_\_  
(Signature of MBE's Principal) (Name and Title)

THIS FORM MUST BE COMPLETED, and included in this *Supplemental Bid Information* package, by each and every MBE contractor or subcontractor proposed to participate in this project.

**The penalty for making false statements in offers (10 years imprisonment and/or \$10,000 fine) is prescribed in 18 U.S.C. 1001.**

**AFFIDAVIT OF MINORITY BUSINESS ENTERPRISE**  
(Separate form required for each MBE, WBE, and DBE proposed)

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

I hereby declare and affirm that \_\_\_\_\_ is a Minority  
(Bidder's printed company name)

Business Enterprise (MBE), as defined by LMHA in the bid solicitation and that I am an officer of the above referenced MBE firm, and that I am authorized to provide information required by LMHA to support that firm's representation that it is a Minority Business Enterprise.

I do solemnly declare and affirm, under the penalties of perjury, that the foregoing is true and correct, and that I am authorized, on behalf of the above-named firm, to make this affidavit.

\_\_\_\_\_  
(Signature of Affiant)

\_\_\_\_\_  
(Printed name and title of Affiant)

STATE OF KENTUCKY, COUNTY OF JEFFERSON, CITY OF LOUISVILLE

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,

\_\_\_\_\_, the undersigned officer, personally appeared before me,  
(Printed name of Affiant)

known to me to be the person described in the foregoing Affidavit, and acknowledged that he/she executed the same in the capacity therein stated and for the purposes therein contained.

In witness whereof, I hereunto set my hand and official seal:

\_\_\_\_\_  
(Notary's Signature)

\_\_\_\_\_  
(Notary's printed name)

My commission expires \_\_\_\_\_.

**AFFIX  
NOTARY'S  
SEAL**

THIS FORM MUST BE COMPLETED, and included in this *Supplemental Bid Information* package, by each and every minority contractor or subcontractor proposed to participate in this project.

**The penalty for making false statements in offers (10 years imprisonment and/or \$10,000 fine) is prescribed in 18 U.S.C. 1001.**

**LEGITIMACY OF JOINT VENTURE**

(Separate form required for each joint venture)

Majority Party's Name, Address, Phone, and Principal's Name:

---

---

---

Minority Party's Name, Address, Phone, and Principal's Name:

---

---

---

Portion of work to be performed by Majority Party: \_\_\_\_\_ % \$ \_\_\_\_\_  
Portion of work to be performed by Minority Party: \_\_\_\_\_ % \$ \_\_\_\_\_

(Provide additional details on following page if applicable.)

"The undersigned do hereby declare and affirm, under the penalties of perjury, that the foregoing statements are true and correct and that **all material information necessary to identify and explain the terms and operation of the joint venture, and the intended participation by each joint venture, in this undertaking, is attached hereto.** Further, the undersigned agree to provide LMHA current, complete, and accurate information regarding the actual joint venture work, payments and any proposed changes in the above-stated arrangements, and to permit audits and/or examinations of books, records, and files of the joint ventures by authorized representatives of LMHA. The undersigned recognize and acknowledge that the statements herein are given under oath and any material misrepresentation will be grounds for terminating any contract that may be awarded the undersigned for this project."

BY: \_\_\_\_\_  
(Signature of Majority Party's Principal)

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

BY: \_\_\_\_\_  
(Signature of Minority Party's Principal)

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

Which, if any, of the parties to this venture are MBE firms? \_\_\_\_\_

**THIS FORM MUST BE COMPLETED, and included in this *Supplemental Bid Information* package, by every joint venture proposed to participate in this project (ATTACH the Joint Venture Agreement and Letters of Incorporation).**

The penalty for making false statements in offers (10 years imprisonment and/or \$10,000 fine) is prescribed in 18 U.S.C. 1001.

**DETAILS OF JOINT VENTURE AGREEMENT**

(Separate form required for each joint venture)

The **Majority** Party normally employs \_\_\_\_\_ tradespersons and performs work in the following trades:

\_\_\_\_\_

The **Minority** Party normally employs \_\_\_\_\_ tradepersons and performs work in the following trades:

\_\_\_\_\_

Indicate all work to be performed under this contract by the parties to this joint venture and the dollar value of each item (on a per-party basis):

<b><u>Description of Work Item</u></b>	<b><u>Party Performed By</u></b>	<b><u>\$ Value</u></b>

**Total Dollar Value: \$ \_\_\_\_\_**

(Attach additional pages if needed.)

**IF THE BID INVOLVES A JOINT VENTURE OR JOINT VENTURES, THIS FORM MUST BE COMPLETED AND SUBMITTED WITH THE OFFICIAL BID PACKAGE.**

**II. SECTION 3 PROGRAM REGULATORY REQUIREMENTS** (In accordance with 24 CFR 75)

A. The purpose of Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u - Section 3) is to ensure that employment and other economic opportunities shall be to the greatest extent feasible and directed to low and very low income persons, particularly those who are recipients of government assistance for housing, and to business concerns which provide economic opportunities to low and very low income persons.

1. Definitions of specific terms are as follows:

- a) *1937 Act* means the United States Housing Act of 1937, 42 U.S.C. 1437 et seq.
- b) *Contractor* means any entity entering into a contract with:
  - A recipient to perform work in connection with the expenditure of public housing financial assistance or for work in connection with a Section 3 project; or
  - A subrecipient for work in connection with a Section 3 project.
- c) *Labor hours* means the number of paid hours worked by persons on a Section 3 project or by persons employed with funds that include public housing financial assistance.
- d) *Low-income person* means a person as defined in Section 3(b)(2) of the 1937 Act, which is a person who's annualized income is at or below \$43,050 as determined per HUD FY 2021 Income Limits Documentation for Louisville Metro Area.
- e) *Professional services* mean non-construction services that require an advanced degree or professional licensing, including, but not limited to, contracts for legal services, financial consulting, accounting services, environmental assessment, architectural services, and civil engineering services
- f) *Section 3 Business Concern* means:
  - (1) A business concern meeting at least one of the following criteria, documented within the last six-month period:
    - (i) It is at least 51 percent owned and controlled by low- or very low-income persons; or



- (ii) Over 75 percent of the labor hours performed for the business over the prior three-month period are performed by Section 3 Workers; or
- (iii) It is a business at least 51 percent owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing.

(2) The status of a Section 3 business concern shall not be negatively affected by a prior arrest or conviction of its owner(s) or employees.

(3) Nothing in this part shall be construed to require the contracting or subcontracting of a Section 3 business concern. Section 3 business concerns are not exempt from meeting the specifications of the contract.

g) *Section 3 Worker* means:

(1) Any worker who currently fits or when hired within the past five years fit at least one of the following categories, as documented:

- (i) The worker's income for the previous or annualized calendar year is below the income limit established by HUD.
- (ii) The worker is employed by a Section 3 business concern.
- (iii) The worker is a YouthBuild participant.

(2) The status of a Section 3 worker shall not be negatively affected by a prior arrest or conviction.

(3) Nothing in this part shall be construed to require the employment of someone who meets this definition of a Section 3 worker. Section 3 workers are not exempt from meeting the qualifications of the position to be filled.

h) *Section 8-assisted housing* refers to housing receiving project-based rental assistance or tenant-based assistance under Section 8 of the 1937 Act.

i) *Subcontractor*. Any entity (other than a person who is an employee of the Contractor) that has a contract with the Contractor to undertake a portion of the Contractor's obligation for the performance of work.

j) *Targeted Section 3 Worker* means a Section 3 Worker who is:

- (1) A worker employed by a Section 3 Business Concern; or
  - (2) A worker who currently fits or when hired fit at least one of the following categories, as documented within the past five years:
    - (i) A resident of Louisville Metro Housing Authority or Section 8-assisted housing;
    - (ii) A resident of other public housing projects or Section 8-assisted housing managed by the PHA that is providing the assistance; or
    - (iii) A YouthBuild participant.
  - k) *YouthBuild* refers to programs receiving assistance under the Workforce Innovation and Opportunity Act (29 U.S.C. 3226).
2. Requirements for Contractors and Subcontractors are as follows:
- a) Employment and training.
    - (1) Consistent with existing Federal, state, and local laws and regulations, contractors, and subcontractors, must make their best efforts to provide employment and training opportunities generated by this project to Section 3 Workers.
    - (2) Contractors and subcontractors, must make their best efforts described in paragraph (a)(1) of this section in the following order of priority:
      - (i) To residents of the public housing projects for which the public housing financial assistance is expended;
      - (ii) To residents of other public housing projects managed by the PHA that is providing the assistance or for residents of Section 8-assisted housing managed by the PHA;
      - (iii) To participants in YouthBuild programs; and
      - (iv) To low- and very low-income persons residing within the Louisville Metropolitan Area.
  - b) Contracting.
    - (1) Consistent with existing Federal, state, and local laws and regulations, Contractors, and subcontractors, must make their best efforts to award contracts and subcontracts to business

concerns that provide economic opportunities to Section 3 workers.

- (2) Contractors and subcontractors, must make their best efforts described in paragraph (b)(1) of this section in the following order of priority:
  - (i) To Section 3 business concerns that provide economic opportunities for residents of the public housing projects for which the assistance is provided;
  - (ii) To Section 3 business concerns that provide economic opportunities for residents of other public housing projects or Section-8 assisted housing managed by the PHA that is providing the assistance;
  - (iii) To YouthBuild programs; and
  - (iv) To Section 3 business concerns that provide economic opportunities to Section 3 Workers residing within the Louisville Metropolitan Area.

3. Contractor's Safe Harbor:

- a) General. LMHA and other recipients will be considered to have complied with requirements in this part, in the absence of evidence to the contrary, if they:
  - (1) Certify that they have followed the prioritization of effort listed in Section 2 a (2) and 2 b (2); and
  - (2) Meet or exceed the Section 3 benchmarks as described in paragraph (b) of this section.
- b) Benchmarks for the project are as follows:
  - (1) Twenty-five (25) percent of the labor hours performed on this project shall be by Section 3 Workers as defined in Section 1 (g). The ratio to determine Section 3 Worker labor hours is the number of labor hours worked by Section 3 Workers divided by the total number of labor hours worked by all workers on the project.

$\frac{\text{Section 3 Labor Hours}}{\text{Total Labor Hours}} = 25\%$
--

- (2) Five (5) percent of the labor hours performed on this project shall be by Targeted Section 3 Workers as defined in Section 1 (j). The ratio to determine Targeted Section 3 Worker labor hours is the number of labor hours worked by Targeted Section 3 Workers divided by the total number of labor hours worked by all workers on the project.

$\frac{\text{Targeted Section 3 Labor Hours}}{\text{Total Labor Hours}} = 5\%$
--

- (3) The Contractor and subcontractors will exclude Professional Services as defined in Section 1 (e), from the total number of labor hours performed on the project.
- (4) Contractors and subcontractors may report on the labor hours based on the employer's good faith assessment of the labor hours of a full-time or part-time employee informed by the employer's existing salary or time and attendance based payroll systems.

c) Reporting of Labor Hours:

- (1) Contractors and subcontractors must report to Louisville Metro Housing Authority:
- (i) The total number of labor hours worked;
  - (ii) The total number of labor hours worked by Section 3 Workers; and
  - (iii) The total number of labor hours worked by Targeted Section 3 Workers.
- (2) It is the Bidder's inherent responsibility to determine employees are Section 3 Workers (as per II A 1 (g)) and Targeted Section 3 Workers (as per II A 1 (j)) and must provide documentation upon request.
- (3) Section 3 workers' and Targeted Section 3 Workers' labor hours may be counted for five years from when their status as a Section 3 Worker or Targeted Section 3 Worker is established.
- (4) Contractors and subcontractors shall submit Labor Hours weekly. Labor Hours may be submitted via certified payroll forms so long as Employees are clearly designated as Non-Section 3 Worker, Section 3 Worker or Targeted Section 3 Worker

- B. **Employment Demographics Reporting Requirements** -- The Contractor and each subcontractor shall complete and submit "Employment Demographics" forms once every month, or more frequently if LMHA so chooses, during the course of the contract.

In completing the forms, the Contractor and each subcontractor shall clearly identify persons newly employed since the last form was submitted (hereafter "New Hires"). The Contractor or subcontractor shall provide the address and telephone number of each New Hire, and shall state whether each New Hire is a Section 3 Worker or Targeted Section Worker. The Contractor shall collect the forms and deliver them to LMHA by the seventh calendar day of each such month. LMHA will provide the Contractor with proper, blank forms at the pre-construction conference, from which the Contractor shall make and distribute copies for its own use and its subcontractors' use. The Contractor's failure to submit a monthly Employment Demographics form, or that of any subcontractor, is ground for termination, for default, of the Contractor's right to proceed with the work.

- C. **Notice of Job Openings** -- The Contractor shall notify LMHA of any and all job openings that arise in the Contractor's company during the course of the Contract. Such notice shall be in writing and mailed, first class, to LMHA via the U.S. Postal Service within two business days after such opening arises. The notice shall describe the minimum qualifications and requirements of the job, the nature of the work, the expected pay rate or range, the place and manner of submitting applications, the name, address and telephone number of the person to contact to obtain an application or additional information, and the date by which applications must be submitted. LMHA will notify its residents of such job openings and encourage qualified residents to submit applications for employment. The Contractor shall, if it receives an application from a qualified LMHA resident, give that application and applicant the same opportunity and consideration for the job as would be given any other, similarly qualified applicant and, if such applicant is the most qualified applicant and there is no bar to employing the applicant, the Contractor shall hire the applicant for the job if it hires anyone for the job. The Contractor's right to proceed with the work may be terminated, for default, upon failure to perform this obligation.

**END OF SECTION M**