



*Growing Communities One Family At A Time
For More Than 70 Years*

**INVITATION FOR BIDS
IFB NO. 2024-04**

**REROOFING FOR
NORTHWOODS**

**BIDS DUE:
April 25, 2024 @ 2:00 P.M., CST**

**Issued
March 26, 2024 @ 2:00 P.M., CST**

INVITATION FOR BIDS NO. 2024-04 REROOFING FOR NORTHWOODS

IFB Document

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INTRODUCTION

The Housing Authority of the City of Huntsville, Alabama (hereinafter, “HHA or Huntsville Housing Authority”) is a quasi-municipal corporation authorized by the State of Alabama, Madison County, to operate in the City of Huntsville, Alabama. HHA is governed by a five-member Board of Commissioners (Board) that is appointed by the mayor and serves staggered five-year terms. The Board is the policy-making body of HHA.

Currently, HHA owns and/or administers 12 individual Asset Management Projects (AMPs), comprised of 1500 public housing units. HHA also administers 34 apartment units and 40 scattered site single-family rental homes owned and rented by Huntsville Housing Development Corporation (hereinafter, “DHDC”). In addition, HHA administers 1860 Section 8/Housing Choice Vouchers. HHA currently has approximately 91 full-time regular employees.

Your response to the Scope of Services and/or Technical Specifications must be complete, as it will become part of any contractual agreement. We appreciate the investment of time and resources firms are making by participating in this process. All submitted bids shall be evaluated for responsiveness to the requirements of the Invitation for Bids (“IFB”). Those responses not in accordance with the Invitation for Bids shall be deemed non-responsive and eliminated from further evaluation.

IFB INFORMATION AT A GLANCE

<p>EDT-THA PROJECT ARCHITECT CONTACT</p> <p>HUNTSVILLE HOUSING AUTHORITY CONTACT</p>	<p>Mark Blazer Telephone: 256-883-8496 Email: Mark.Blazer@edtinc.net LaTonya Satcher-Brewton Telephone: 256-532-5676 Fax: 256-533-6344 Email: lbrewton@hsvha.org</p>
<p>HOW TO OBTAIN THE IFB DOCUMENTS ON THE APPLICABLE INTERNET SITE</p>	<p>1. To Access and Download Documents (no “www”) https://ha.economicengine.com/requests.html?company_id=978 2. Click on the “Login” or “Register your company button in the upper left side. 3. Follow the listed directions. 4. If you have any problems in accessing or registering on the Housing Agency Marketplace, please call customer support at (866)526-9266.</p>
<p>PRE-SUBMISSION MEETING</p>	<p>April 9, 2024 @ 2:00 P.M., CST 200 Washington Street Huntsville, AL 35804</p>
<p>QUESTION SUBMITTAL DEADLINE no later than seven (7) days before bidding due date. Via internet system or email to Mark.Blazer@edtinc.net</p>	<p>All questions pertaining to this IFB must be submitted in writing. Oral communications are discouraged. HHA nor Architect will be bound by any oral answers or interpretations of the IFB. Written question may be submitted via the internet system or via email.</p>
<p>BID SUBMITTAL RETURN & DEADLINE</p>	<p>April 25, 2024 @ 2:00 P.M., CST Sealed bids are due at the following location: 200 Washington Street Huntsville, AL 35804</p> <p>Submittal package <u>must</u> have the following notation on the bottom left-hand corner “IFB 2024-04 REROOFING PROJECT FOR NORTHWOODS PROJECTS -Enclosed. Documentation must be received in-hand, time verifiable by HHA no later than April 25,2024. DO NOT PLACE BID IN DROP BOX!</p>

HUNTSVILLE HOUSING AUTHORITY

- 1.0 **THE HHA’S RESERVATION OF RIGHTS.** The HHA reserves the right to:
- 1.1 **Right to Reject, Waive, or Terminate the IFB.** Reject any or all bids, to waive any informality in the IFB process, or to terminate the IFB process at any time, if deemed by the HHA to be in its best interests.
 - 1.2 **Right to Not Award.** Not to award a contract pursuant to this IFB. Right, to award by individual service, group of services, or as a total, whichever is deemed most advantageous to HHA.
 - 1.3 **Right to Terminate.** Terminate a contract awarded pursuant to this IFB, at any time for its convenience upon 10 days written notice to the Contractors.
 - 1.4 **Right to Determine Time and Location.** Determine the days, hours, and locations that the successful proposer(s) shall provide the services called for in this IFB.
 - 1.5 **Right to Retain Bids.** Retain all Bids submitted and not permit withdrawal for a period of 60 days subsequent to the deadline for receiving bids without the written consent of the HHA’s Executive Director (ED), who serves as the Contracting Officer (CO).
 - 1.6 **Right to Negotiate.** Negotiate the fees proposed by the bidder entity.
 - 1.7 **Right to Reject Any Bid.** Reject and not consider any bid that does not meet the requirements of this IFB, including but not necessarily limited to incomplete bids and/or bids offering alternate or non-requested services.
 - 1.8 **No Obligation to Compensate.** Have no obligation to compensate any bidder for any costs incurred in responding to this IFB.
 - 1.9 **Right to Prohibit.** At any time during the IFB or contract process to prohibit any further participation by a bidder or reject any bid submitted that does not conform to any of the requirements detailed herein. By accessing the Housing Agency Marketplace ha.economicengine.com Internet System (hereinafter, the “noted Internet System” or the “System”) and by downloading this document, each prospective bidder is thereby agreeing to abide by all terms and conditions listed within this document and within the noted Internet System, and further agrees that he/she will inform the CO in writing within 5 days of the discovery of any item listed herein or of any item that is issued thereafter by the HHA that he/she feels needs to be addressed. Failure to abide by this period shall relieve the HHA, but not the prospective proposer, of any responsibility pertaining to such issue.
 - 1.10 **Right to Reject - Obtaining Competitive Solicitation Documents.** The ha.economicengine.com Internet-based software is the only official and appropriate venue to obtain the IFB documents (and any other information pertaining to this IFB such as addenda). Accordingly, by submitting a response to this IFB the respondent thereby affirms that he/she obtained all information on the noted software. Any other group such as an association or a bid depository that informs potential respondents of the availability of such competitive solicitations are hereby instructed to not distribute these documents to any such potential respondents, but to instruct the potential respondents to visit the noted Internet-based software to obtain the documents. The HHA will reject without consideration any response submitted from a firm that has not obtained the documents from the noted Internet-based software.

2.0 SCOPE OF WORK/TECHNICAL SPECIFICATIONS.

This project consists of re-roofing of 124 buildings at Northwoods, a Huntsville Housing Authority owned and managed property. One of the 124 buildings (admin building) is listed under deduct alternate#5. 2 building are under deduct #1, 2 building are under deduct#2, 2 building are under deduct #3 and 3 building are under deduct #4. Typical re-roof work includes removal of existing shingles, underlayment, ridge vents, penetration flashing, roof vents and roof edge flashing. New installation includes shingles, underlayment ridge vents, penetration flashing, roof vents, and roof edge flashing. Existing roof substrate and fascia board is to be inspected during demotion. Substate and fascia board deemed unfit to be replaced in-kind.

2.1 The attached scope of work located in the architect's project manual gives a description and technical specifications for this re-roofing project. Although HHA has attempted to identify all the needs, the scope of work may or may not be all-inclusive.

2.2 **GENERAL CONDITIONS.** The following general conditions may or may not be all-inclusive.

2.2.1 **Bid Bond.** The bid bond or guarantee equivalent to 5% of the bid price shall be included in the bid package submitted by each bidder for any proposed fee that is greater than \$50,000. This bond ensures that if awarded the contract, the bidder will accept and perform the work under the contract. It also ensures that the bidder will not attempt to withdraw or otherwise not fulfill the contract. Finally, the bid bond ensures that the bidder will execute the contractual documents that are required within the time specified in the solicitation or forfeit all or part of the guarantee. A certified check, bank draft, U.S. Government Bonds at par value, bid bond secured by an acceptable surety company, or other negotiable instrument may be accepted as a bid guarantee. If the successful bidder refuses to sign the contract after award, the bid bond is forfeited, and award will go to the next lowest responsive and responsible bidder. If a bid bond or guarantee is not submitted with the bid, the HHA will reject the bid as non-responsive. The HHA anticipates that it will not return any bid bonds until the contract has been awarded and the required performance and payments bonds have been furnished; until all bids have been rejected; or the time specified for acceptance of bids has expired. In fairness to the other bidders, the HHA may also choose to return the bid bonds if the HHA has a firm and reasonable assurance that the responsive and responsible bidder who submitted the lowest cost will execute the contract.

2.2.2 **Performance and Payment Bond.** The bidder agrees to provide HHA with a satisfactory and will be submitted by the successful bidder prior to execution of payment and performance bond executed by the bidder and a corporate surety qualified to do business in Alabama, in an amount equal to, but not less than one hundred percent (100%) of the bid amount. The bond will be the original, certified copy the contract. **Performance Bond.** The performance bond is meant to ensure that the contract is successfully completed. The performance bond guarantees that if the Contractor is unable to complete the contract, the surety company will step in to finish the work. In the case of a letter of credit or cash escrow, the HHA may use these funds to complete the contract work. **Payment Bond.** The payment bond is a method of ensuring that the Contractor pays the subcontractors and suppliers. By requiring payment bonds, the HHA avoids becoming entangled in disputes

concerning payment of subcontractors and suppliers by the general contractor. The surety underwriting the payment bond ensures the contractors and suppliers will be paid. Often, performance and payment bonds are combined into a single document. Failure to pay subcontractors for work performed in commercial contracts may often lead to the subcontractor filing a mechanic's lien against property owners to obtain payment for services rendered. The HHA contract requires the payment bond to prevent this problem and ensure that no liens will be filed against any HHA building or lot of ground. As a reminder, Clause 24 of form HUD-5370, *General Conditions of the Contract for Construction* (attached hereto) clearly forbid the placement of liens and is binding on any contractor, subcontractor, and material supplier.

2.2.3 Bonding Companies. An acceptable surety (bonding) company is one that is authorized to do business in the State of Alabama and is acceptable to HUD and the Agency. The surety must be listed on the most recently published U.S. Treasury Circular 570 (often referred to as the T-List). Individual sureties are not permitted. Circular 570 is available from the U.S. Department of the Treasury, Financial Management Service, Surety Bond Branch, Room #262C, 401 14th Street, S.W., Washington, D.C. 20227. The T-List may also be accessed on the Internet at: <http://www.fms.treas.gov/c570/index.html>.

2.2.4 Bonding Requirements. In order to encourage participation by a broad range of competitors, including small and minority firms, HUD has provided for alternate bid and contract guaranties. These apply to all construction projects greater than \$50,000 (though, at the Agencies discretion, may apply to smaller projects), whether development or modernization, funded pursuant to the U.S. Housing Act of 1937, as amended. As a result, the contractors for all construction projects shall be required to submit the following bid and contract guarantees. Please note that only the bid bond is required at time of bid; however, one of the purposes of the bid bond is to provide the Agency with assurance that the successful bidder will indeed obtain the necessary performance and payment bonds. Required bonds include a bid guarantee from each bidder, equivalent to 5% of the bid price and, from the successful bidder, one of the following:

- 2.2.4.1 A performance and payment bond for 100% of the contract price; or
- 2.2.4.2 Separate payment and performance bonds each for 50% or more of the contract price; or
- 2.2.4.3 A 20% cash escrow; or
- 2.2.4.4 A 25% irrevocable letter of credit.

2.2.5 Inadequate Surety. If the low bidder fails to provide an acceptable assurance of completion (payment and performance bonds) after award of the contract, the Agency may consider the bid guarantee forfeited and notify the surety company. The contract is then terminated for default. The amount to be recovered from the bid bond or guarantee will typically equal at least the difference between the defaulted bid and the next higher acceptable bid or the amount by which the bid accepted by re-soliciting exceeds the defaulted contract.

- 2.2.6 Licensing.** Contractor will be licensed by the State Licensing Board of General Contractors of Alabama as required by Title 34-8-1 of the 1975 Code of Alabama. **Contractor must submit proof of licensing with bid.** Bidders not submitting license with bid may be deemed nonresponsive.
- 2.2.7 Permits.** Contractor shall secure, maintain, and pay all permits, fees, and licenses necessary for the proper execution and completion of work.
- 2.2.8 Cleaning.** The Contractor shall, on a daily basis, keep the premises clean and clear of debris resulting from his/her contract work and the work of any and all subcontractors.
- 2.2.9 Subcontracting.** HHA encourages the participation of minority and women owned businesses. The Contractor will make every effort to utilize minority and women owned subcontractors in work performed under this contract. The Contractor will be asked to submit a list of subcontractors to be used in the performance of this contract. HHA has established goals in minority and women owned business participation in its contracts. Information provided by the contractor assists HHA in monitoring its progress toward the realization of its goal. All subcontractors must be approved by HHA in advance.
- 2.2.10 Resident Participation.** HHA encourages the hiring of residents by the Contractor for any employment opportunities as a result of its contracts. The Contractor may be asked to report the hiring of any residents to assist HHA in monitoring resident in the performance of work under its contracts, progress toward achieving established goals and in the development of future resident participation programs.
- 2.2.11 E-Verify Affidavit.** U.S. Law requires companies to employ only individuals who may legally work in the United States - either U.S. citizens, or foreign citizens who have the necessary authorization. The Contractor must certify compliance with Verify, in that the Contractor is registered, uses, and will continue to use the E-Verify, Federal Work Authorization Program throughout the contract period. This form is attached to this IFB. The 1-page form must be fully completed, execute where provided thereon and will be a part of the contract.
- 2.2.12 Davis Bacon Federal Wage Rates Determination Rates.** As detailed within pertinent HUD and Federal regulation, Contractor is required to Davis-Bacon wage rates (for all "construction contracts in excess of \$2,000"). The applicable Wage Rates pertaining to the work detailed herein is attached hereto. This work will be subject to all the requirements pertaining to Davis-Bacon work, including the applicable Federal form and procedures (e.g., on-site interviews; certified payrolls; etc).

2.3 GENERAL SPECIFICATIONS

2.3.1 **Temporary Facilities.** It shall be the responsibility of the Contractor to provide any temporary facilities that may be required, including, but not limited to temporary toilets; water; fencing; barricades; lighting; planking; signage; guardrails; etc. Accordingly, it shall be the responsibility of the Contractor to secure and maintain such items during the term of the work.

2.3.2 **Time of Completion.** The Contractor shall commence work under the ensuing contract on a date to be specified within the Notice to Proceed form issued by the Agency and shall fully complete all work thereunder **within one hundred and eighty (180) consecutive calendar days** from said date. **NOTE:** Any bidder that may have any concerns pertaining to the noted “180” must bring this to the attention of HHA 7 days prior to bid submission. Normal working hours shall be **Monday through Friday, 8:00 AM to 6:00 PM CT**. All other working hours require pre-approval. Provide a minimum five (5) working days for approval and planning.

HHA is sensitive to the time restraints of receiving material and the backlogs during this time of the COVID-19 Pandemic. HHA understands that many of the raw materials to create products are not readily available, and supply chains are experiencing backlogs and in these cases any delay will not negatively impact the contractor.

2.3.3 **Tools/Equipment/Materials.** The Contractor shall ensure that at all times during the work tools, equipment, and material are handled, placed, and stored in a secure and safe manner so as to protect all parties, including, but not limited to, the Contractor's workers, HHA tenants and staff, and the public at large. The Contractor shall ensure that during non-working hours such items are not left unattended on the job site when such safety may be compromised. If applicable, as the surrounding buildings the Contractor will be working around is occupied by housing tenants, including a number of elderly/disabled or special needs persons, it will be especially important that traffic areas are clear for access and egress.

2.3.4 **Weekends.** Unless otherwise approved by the Agency in writing, the Contractor may not perform work on Agency property during a holiday nor weekend days (Saturday or Sunday).

2.3.5 **Work Standards.** It is the responsibility of the Contractor to ensure that each worker provided by the Contractor shall be fully trained and qualified to provide any assigned work. Accordingly, all work provided shall be guaranteed by the Contractor to be performed in a workmanlike manner and in accordance with all applicable laws, codes, and/or regulations, including those issued by, but not limited to, the County of Morgan (and/or, if applicable, any city jurisdiction therein in which work will be performed), and/or the State of Alabama, or any applicable Federal Agency. Smoking is prohibited within the building and on the within the building property boundaries.

2.3.6 Contractor must submit shop drawings and/or manufacturing information per construction documents in Project Manual.

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- 2.3.7 Contractor must supply warranty information on all products and/or services.
- 2.3.8 Contractor shall be responsible for all damage done by his equipment and personnel. Any damage shall be reported immediately to HHA's Architect and Engineer's firm and/or Construction Manager, so, if necessary, a work order may be issued, and cost is billed back to the contractor for payment.
- 2.3.9 Contractor must list a contact for all customer service inquires.

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3.0 BID FORMAT.

3.1 Two-step Bidding Process. All bidders will initially submit the documentation/information detailed within the following listed **Step #1 of the Table below**. Then, the HHA anticipates that it will notify the apparent low bidder to submit, within 5 days after being notified to do so, the information detailed within the following detailed Step#2 within the same Table.

3.1.1 Tabbed Bid Submittal. As may be further described herein, HHA intends to retain a Contractor pursuant to a “Low Bid” basis, also taking into consideration responsiveness and responsibility. Therefore, so that HHA can properly evaluate the offers received, all bids submitted in response to this IFB must be formatted in accordance with the Table below. Each category must be separated by numbered index dividers (which number extends to that each tab can be located without opening the bid) and labeled with the corresponding tab reference also noted below. None of the proposed services may conflict with any requirement the HHA has published herein or has issued by addendum.

Tab No.	Description
STEP #1	Initial documentation/information to be submitted unfolded within a sealed envelope by all bidders prior to the posted bid submittal deadline.
1	Form of Bid: This Form is attached hereto as Attachment A to this IFB document. This 1-page Form must be fully completed, executed where provided thereon and submitted under this tab as a part of the bid submittal.
2	Form HUD-5369-A (11/92), Representations, Certifications, and Statements of Bidders, Public and Indian Housing Programs: This Form is attached hereto to this IFB document. This 4-page Form must be fully completed, executed where provided thereon and submitted under this tab as a part of the bid submittal.
3	Bid Bond or Cashier’s Check. If required, the Bid Bond as detailed within the Section 2.2.1 above
4	Bid Compensation Form. Contractor’s proposed cost to HHA
'STEP #2	Documentation/information to be submitted, within 5 days, ONLY by the apparent low bidder when directed to do so by HHA.
1	Licensing. A copy of the bidder’s business license allowing the contractor to provide such services within the City of Huntsville, and/or the State of Alabama.
2	Proposed Services. As more fully detailed within the Scope of Work/Technical Specifications of this document, and the Specifications, drawings (if applicable) each attached hereto, the bidder shall, at a minimum, clearly detail within the information submitted under this tab documentation showing: <ul style="list-style-type: none"> ➤ A brief description of the proposed safety and quality assurance program ➤ A fully completed form HUD-2530 Previous Participation Certification (attached)
3	Profile of Firm Form: The Profile of Firm Form is attached hereto to this IFB document. This 2-page Form must be fully completed, executed and submitted under this tab as a part of the step#2 bid submittal.
4	Managerial Capacity/Financial Viability: The proposer entity must submit under this tab a concise description of its managerial and financial capacity to deliver the proposed services. Identify additional staff within areas (5) and (6) of the <i>Profile of</i>

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	<i>Firm Form.</i> Such information shall include the bidders qualifications to provide the services.
5	Client Information: The bidder shall submit a listing of at least (3) former or current clients, including Public Housing Agencies, for whom the bidder has performed similar or like services to those being proposed herein. The listing shall, at a minimum, include: <ul style="list-style-type: none"> ➤ The client’s name; ➤ The client’s contact name; ➤ The client’s telephone number; ➤ A brief description and scope of the service(s) and the dates the services were provided.
6	Form HUD-92010 (08/06) Equal Employment Opportunity: The bidder must submit under this tab a copy of its Equal Opportunity Employment Policy.
6	Form HUD-50070 Certification for a Drug-Free Workplace-Form Attached
6	Form HUD-50071 Certification of Payments to Influence Federal Trade
6	E-Verify Form- The 1-page form must be fully completed, executed where provided thereon and will be a part of the contract.
7	Subcontractor/Joint Venture Information (Optional Item): The bidder shall identify hereunder whether or not he/she intends to use any subcontractors for this job, if awarded, and/or if the bid is a joint venture with another firm. Please remember that all information required from the bidder under the proceeding tabs must also be included for any major subcontractors (10% or more) or from any joint venture.
8	Other Information (Optional Item): The bidder may include hereunder any other general information that the bidder believes is appropriate to assist the HHA in its evaluation.
	Insurance Certificates. The apparent successful bidder will also direct its insurance broker or carrier to deliver directly to HHA (by email is preferred) the insurance certificates detailed with 5.31 through 5.3.5 herein. Note: The apparent successful bidder WILL NOT deliver these certificates - the insurance broker or carrier will do so.
	Optional Tabs. If no information is to be placed under any of the above noted tabs (especially the “Option” tabs), please place there under a statement such as “NO INFORMATION IS BEING PLACED UNDER THIS TAB” or “THIS TAB LEFT INTENTIONALLY BLANK. “DO NOT eliminate any of the tabs.

3.2 Entry of Proposed Fees.

3.2.1 The proposed fees shall be submitted by the bidder and received by HHA on the **Bid 3.2.1 Cost Form** provided only. A bidder must enter a **proposed fee** for each item (*failure to provide a bid fee may deem your bid to be unresponsive*) “No Bid” will not be allowed for any item, though a “No Charge” will be allowed for certain items.

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

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IFB Section	Pricing Item No.	Qty	U/M	Description
3.2.2.1	1	1	Each	Firm-Fixed Fee to complete all of re-roofing project for (124) housing developments as detailed herein and within Attachments hereto.

3.3 Additional Information Pertaining to the preceding noted Pricing Items.

3.3.1 Entry of the Fees. Bidders are required to enter where provided within the Bid Cost Form a reasonable and realistic cost for the required work listed within the Pricing Item Description with the immediate-table above.

3.3.2 Review the Entry of Proposed Fees. After a bidder has entered where provided within the Bid Cost form his/her proposed unit costs for the Pricing Items, the HHA will automatically multiply the proposed unit costs (if applicable) by the listed quantities. The HHA strongly recommends that each bidder, after entry of these proposed fees review the entry to ensure that the bidder has entered the proposed fees correctly. The bidder will **NOT** be able to correct this entry after the posted deadline has expired, which means that the HHA will utilize such entry, correct or incorrect, to determine the apparent low bidder.

3.3.3 Price Escalation. Pertaining to the ensuing contract, there shall be no escalation of the proposed costs allowed at any time during the awarded contract except for any legitimate change orders that may be approved by the HHA.

3.3.4 Prior Agency Approval Required. Please note that the successful bidder shall **NOT** conduct any additional work without the prior written authorization of the HHA representative. Failure to abide by this directive shall release the Agency of any obligation to pay the successful bidder for any work conducted without the noted prior written authorization.

3.3.5 No Deposit/No Retainer. The HHA will **NOT** pay any deposit or retainer fees at any time as a result of award of the ensuing contract (though the HHA may consider, under certain circumstances, a reasonable and justified payment for mobilization).

3.4 Bid Submission. A total of one (1) original signature hard copy bid submittal, shall be placed in a sealed package. Bid submittals shall have a cover and extending tables and shall be placed unfolded in a sealed package. All bids must **be submitted and time-stamped received in the designated HHA’s office by no later than the submittal deadline** stated herein (or within any ensuing addendum) **in a sealed package and addressed to:**

Huntsville Housing Authority
200 Washington Street
Huntsville, AL 35804

The package exterior **must clearly denote the IFB number** and must have the bidder’s name and return address. Bids received after the published deadline will not be accepted.

- 3.4.1 Submission Conditions.** DO NOT FOLD OR MAKE ANY ADDITIONAL MARKS, NOTATIONS OR REQUIREMENTS ON THE DOCUMENTS TO BE SUBMITTED! Bidders are not allowed to change any requirements or forms contained herein, either by making or entering onto these documents or the documents submitted any revisions or additions; and if any such additional marks, notations or requirements are entered on any of the documents that are submitted to the HHA by the proposer, such may invalidate that bid. If, after accepting such a bid, the HHA decides that any such entry has not changed the intent of the bid that the HHA intended to receive, the HHA may accept the bid and the bid shall be considered by the HHA as if those additional marks, notations, or requirements were not entered on such.
- 3.4.2 Submission Responsibilities.** It shall be the responsibility of each bidder to be aware of and to abide by all dates, times, conditions, requirements and specifications set forth within all applicable documents issued by HHA, including the IFB document, and the documents listed within the IFB, and any addenda and required attachments submitted by the bidder. By virtue of completing, signing and submitting the completed documents, the bidder is stating his/her agreement to comply with the all conditions and requirements set forth within those documents. Written notice from the bidder not authorized in writing by the ED to exclude any of HHA requirements contained within the documents may cause that bidder to not be considered for award.
- 3.5 Bidder’s Responsibilities – Contact with the HHA.** It is the responsibility of the bidder to address all communication and correspondence pertaining to this IFB process to the ED only. Bidders must not make inquiry or communicate with any other HHA staff member or official (including members of the Board of Commissioners) pertaining to this IFB. Failure to abide by this requirement may be cause for HHA not consider a bid submittal received from any bidder who may has not abided by this directive.
- 3.5.1 Addendums.** All questions and requests for information must be addressed in writing to the ED. The ED will respond to all such inquiries in writing by addendum to all prospective bidders (i.e. firms or individuals that have obtained the IFB Documents). During the IFB solicitation process, the CO will NOT conduct any *ex parte* (a substantive conversation—“substantive” meaning, when decisions pertaining to the IFB are made—between the HHA and a prospective bidder when other prospective bidders are not present) conversations that may give one prospective bidder an advantage over other prospective bidders. This does not mean that prospective bidders may not call the CO—it simply means that, other than making replies to direct the prospective bidder where his/her answer has already been issued within the solicitation documents, the CO may not respond to the prospective bidder’s inquiries but will direct him/her to submit such inquiry in writing so that the CO may more fairly respond to all prospective bidders in writing by addendum.
- 3.6 Bidder’s Responsibilities – Equal Employment Opportunity and Supplier Diversity.** Both the Contractor and the HHA have, pursuant to HUD regulation, certain responsibilities pertaining to the hiring and retention of personnel and subcontractors.
- 3.6.1** Within 2 CFR § 200.317-200.326 it states:
- 3.6.1.1** (a) Contracting with small and minority firms, women’s business enterprise and labor surplus area firms.
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3.6.1.2 (b) The grantee and subgrantee will take all necessary affirmative steps to assure that minority firms, women’s business enterprises, and labor surplus area firms are used when possible.

3.6.1.3 (c) Affirmative steps shall include:

3.6.1.3.1 (i) Placing qualified small and minority businesses and women’s business enterprises on solicitation lists;

3.6.1.3.2 (ii) Assuring that small and minority businesses, and women’s business enterprises are solicited whenever they are potential sources;

3.6.1.3.3 (iii) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women’s business enterprises;

3.6.1.3.4 (iv) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women’s business enterprises;

3.6.1.3.5 (v) Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce; and

3.6.1.3.6 (vi) Requiring the prime Contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (e)(2) (i) through (v) of this section.

3.6.2 Within **HUD Procurement Handbook 7460.8 REV 2** it states:

3.6.2.1 Section 15.5.A, Required Efforts. Consistent with Presidential Orders 11625, 12138, and 12432, the <Agency> shall make every effort to ensure that small businesses, MBEs, WBEs, and labor surplus area businesses participate in <Agency> contracting.

3.6.2.2 Section 15.5.B, Goals. <The Agency> is encouraged to establish goals by which they can measure the effectiveness of their efforts in implementing programs in support of . . . contracting with disadvantaged firms. It is important to ensure that the means used to establish these goals do not have the effect of limiting competition and should not be used as mandatory set-aside or quota, except as may otherwise be expressly authorized in regulation or statute. Some localities have adopted minority contracting set-aside policies or geographic limitations, which may be in conflict with Federal requirements for full and open competition.

3.6.3 Within our **HHA Procurement Policy** it states that our HHA will:

3.6.3.1 Assistance to Small and Other Business, Required Efforts:

HUNTSVILLE HOUSING AUTHORITY

- 3.6.3.1.1 Including such firms, when qualified, on solicitation mailing lists;
 - 3.6.3.1.2 Encouraging their participation through direct solicitation of bid or bids whenever they are potential sources;
 - 3.6.3.1.3 Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by such firms;
 - 3.6.3.1.4 Establishing delivery schedules, where the requirement permits, which encourage participation by such firms;
 - 3.6.3.1.5 Using the services and assistance of the Small Business Administration, and the Minority Business Development HHA of the Department of Commerce;
 - 3.6.3.1.6 Including in contracts, to the greatest extent feasible, a clause requiring contractors, to provide opportunities for training and employment for lower income residents of the project area and to award subcontracts for work in connection with the project to business concerns which provide opportunities to low-income residents, as described in 24 CFR Part 135 (so-called Section 3 businesses); and
 - 3.6.3.1.7 Requiring prime contractors, when subcontracting is anticipated, to take the positive steps listed above.
- 3.6.4 **Requirements.** Accordingly, please see document regarding Equal Employment Opportunity, which details the information pertaining to this issue that the proposer must submit in response to this bid showing compliance, to the greatest extent feasible, with these regulations.
- 3.7 **Pre-Bid Conference.** If a scheduled pre-bid meeting is identified on **Page 3** of this document is held, it is pursuant to HUD regulation, not mandatory. Many prospective bidders have previously responded to an IFB with a multi-tabbed submittal and feel comfortable in doing so without attending the pre-conference. Typically, such conferences last 1 hour or less, though such is not guaranteed. The purpose of this conference is to assist prospective bidders in having a full understanding of the IFB documents so that he/she feels confident in submitting an appropriate bid; therefore, at this conference HHA will conduct an overview of the IFB documents, including the attachments. Prospective bidders may also ask questions, though the PO may require that some such questions be delivered in writing prior to a response. Whereas the purpose of this meeting is to review the IFB documents, attendees should bring a copy of the IFB documents to this conference; however, HHA **will not distribute** at this meeting any copies of the IFB documents.
- 3.8 **Recap of Attachments.** It is the responsibility of each bidder to review and include in the bid submittal, if applicable, any of the following attachments pertaining to this IFB, which are hereby referenced below and included as attachments in this IFB.

INVITATION FOR BIDS NO. 2024-04 REROOFING FOR NORTHWOODS

Attachment	Attachment Description
	This IFB Document
	Bid Cost Form
A	Form of Bid
B	Profile of Firm Form
B-2	Client Reference Form
C	Form HUD-5369-A (11/92), <i>Representations, Certifications, and Statements of Bidders</i>
D	Form HUD 92010 <i>Equal Employment Opportunity Certification</i>
E	Form HUD 50070 <i>Certification of a Drug-Free Work Place</i>
F	E-Verify Form - <i>Contractor's Affidavit</i>
G	Section 3 Explanation
H	Section 3 Compliance Agreement
I	HHA <i>Supplemental Instructions To Bidders & Contractors (ITBC)</i>
J	HHA Sample Contract Form <i>(please note that this contract and any noted appendices are being given as a sample only—the HHA reserves the right to revise any clause herein and/or to include within the ensuing contract any additional clauses that the HHA feels it is in its best interests to do so)</i>
K1 & K2	Form HUD-5370 <i>General Conditions for Construction Contracts</i> & Form HUD-5370EZ
L	Davis Bacon Wage Determination - State of Alabama
M	Form HUD-4010 <i>Federal Labor Standards</i>
N	Form HUD 51000 <i>Schedule of Amounts for Contract Payments</i>
O	Form HUD 51001 <i>Periodic Estimate for Partial Payments</i>
P	Form HUD 51002 <i>Schedule of Change Orders</i>
Q	Form HUD 51003 <i>Schedule of Materials Stored</i> (to support partial Payment Form)
R	Form HUD 51004 <i>Summary of Materials Stored</i> (to summarize value of materials)
S	Form HUD 5372 <i>Construction Progress Schedule</i>
T	Form HUD 5369 <i>Instructions to Bidders for Contracts</i>
U	Form HUD 92554M <i>Supplementary Conditions of the Contract for Construction</i>
V	Form HUD 2554 <i>Supplementary Conditions of the Contract for Construction</i>
W	Form HUD-WH-347 <i>U.S. Department of Labor Payroll</i>
X	Form HUD 11 <i>Record of Employee Interview</i>
Y	Form HUD 50071 <i>Certification of Payments to Influence Federal Transactions</i>
Z	Form HUD 2530 <i>Previous Participation Certification</i>
AA	Title 24: Housing and Urban Development PART 135 - ECONOMIC OPPORTUNITIES FOR LOW-AND VERY LOW-INCOME PERSONS

4.0 BID EVALUATION.

- 4.1 **Public Opening:** At the set date and time, all bids received will be opened and publicly read aloud by the Procurement Consultant, including the company name of the bidder and the total calculated costs proposed. At the bid opening the HHA will only disclose the following information: (a) The company name of each bidder; (b) the calculated total amount bid; and (c) the identity of the apparent lowest bidder. A copy of the bid tabulation or recap recorded will be made available to each member of the public attending such opening and to anyone who requests such afterwards. The bids will not be made available for inspection by anyone at this time; the HHA will, at a later time, review all bids in detail and will notify all bidders of any bidder that is, as a result of the more detailed inspection of bids submitted, ruled to be non-responsive or not-responsive (please remember, as detailed within Section 7(b) (3) of form HUD-5369-B. HHA reserves the right to, as determined by theH, “waive informalities and minor

INVITATION FOR BIDS NO. 2024-04 REROOFING FOR NORTHWOODS

irregularities” in the offers received. Bids will be available for inspection by the public after the award has been completed.

- 4.1.1 Ties:** In the case of bids, the award shall be decided as detailed within Section 6.12.C of HUD Procurement Handbook 7460.8 REV 2, by “drawing lots or other random means of selection.”
- 4.2 Responsive Evaluation.** After the public opening the “hard copy” bid submittals received will be evaluated in private for responsiveness (i.e., meets the minimum of the requirements). Firms not meeting the minima that are deemed to be non-responsive will be notified of such in writing by the Agency in a timely manner (in any case, in no less than 5 days after such determination is made).
- 4.3 Responsible Evaluation.** The Agency will evaluate each bid submitted as to responsibility (e.g., a firm that is qualified, responsible, and able to provide to the Agency the required services). If the Agency ascertains that such firm has the required ability, capability, experience, knowledge, licensing, insurance, and resources to provide the required services, the Agency may proceed with award as detailed herein. If the Agency determines that such firm is deemed to be not responsible, such firm will be notified of such in writing by the Agency in a timely manner (in any case, in no less than 5 days after such determination is made); in such case the Agency may proceed with the noted Responsive and Responsible Evaluations with the next lowest bidder.

 - 4.3.1** Depending on the amount of the award, it is possible that the Agency may take such contract award to the HHA Board of Commissioners (BOC) for approval of the award prior to executing a contract with the apparent successful bidder.

4.4 **Restrictions.** Any and all persons having ownership interest in a bidder entity or familial (including in-laws) and/or employment relationships (past or current) with principals and/or employees of a bidder entity will be excluded from participation in the evaluation of the bid.

5.0 **CONTRACT AWARD.**

5.1 **Contract Award Procedure.** If a contract is awarded pursuant to this IFB, the following detailed procedures will be followed:

5.1.1 By completing, executing and submitting the Form of Bid, Attachment A, the bidder is thereby agreeing to “abide by all terms and conditions pertaining to this IFB as issued by the HHA, including an agreement to execute the attached Sample Contract form.” The contract clauses already attached as form HUD 5370-C Attachment also apply. Accordingly, the HHA has no responsibility to conduct after the submittal deadline any negotiations pertaining to the contract clauses already published; and in any case the HHA has no power or authority to negotiate any clauses contained within any attached HUD documents.

5.1.2 **Contract Period:** The HHA anticipates that it will initial award a contract for the period of **one hundred and eighty (180) days** with the option, at the HHA discretion to award or extend for a specified time period.

5.2 **Contract Conditions.** The following provisions are considered mandatory conditions of any contract award made by the HHA pursuant to this IFB:

5.2.1 **Contract Form.** The HHA will not execute a contract on the successful bidder's form-contracts will only be executed on the HHA form (please see the Sample Contract), and by submitting a bid the successful bidder agrees to do so (please note that the HHA reserves the right to amend this form as the HHA deems necessary). However, the HHA will during the IFB process (prior to the submittal deadline) consider any contract clauses that the bidder wishes to include therein and submits in writing a request for the HHA to do so; but the failure of the HHA to include such clauses does not give the successful bidder the right to refuse to execute the HHA's contract form. It is the responsibility of each prospective bidder to notify the HHA, in writing, prior to submitting a bid, of any contract clause that he/she is not willing to include in the final executed contract and abide by. The HHA will consider and respond to such written correspondence, and if the prospective bidder is not willing to abide by the HHA's response (decision), then that prospective bidder shall be deemed ineligible to submit a bid.

5.2.1.1 **Mandatory HUD Forms.** Please note that the HHA has no legal right or ability to (and will not) at any time negotiate any clauses contained within ANY of the HUD forms included as a part of this IFB.

5.2.1.2 **E-Verify Affidavit.** The Contractor must certify compliance with Alabama E-Verify requirements, in that the Contractor is registered, uses, and will continue to use the E-Verify, Federal Work Authorization Program throughout the contract period. This Form is attached hereto as an

INVITATION FOR BIDS NO. 2024-04 REROOFING FOR NORTHWOODS

Attachment this IFB document. This 1-page Form will be fully completed and executed where provided thereon by the successful proposer and will be a part of the ensuing contract.

- 5.2.2 Assignment of Personnel.** The HHA shall retain the right to demand and receive a change in personnel assigned to the work if the HHA believes that such change is in the best interest of the HHA and the completion of the contracted work.
- 5.2.3 Unauthorized Sub-contracting Prohibited.** The Contractor shall not assign any right, nor delegate any duty for the work proposed pursuant to this IFB (including, but not limited to, selling or transferring the contract) without the prior written consent of the ED. Any purported assignment of interest or delegation of duty, without the prior written consent of the ED shall be void and may result in the cancellation of the contract with the HHA, or may result in the full or partial forfeiture of funds paid to the Contractor as a result of the proposed contract; either as determined by the ED.
- 5.3 Licensing and Insurance Requirements.** Prior to award (but not as a part of the bid submission) the *Contractor* will be required to provide:
- 5.3.1 Workers Compensation Insurance.** An original certificate evidencing the proposer's current industrial (worker's compensation) insurance carrier and coverage amount (NOTE: Workers Compensation Insurance will be required of any Contractor that has employees other than just the owner working on-site to provide the services);
- 5.3.2 General Liability Insurance.** An original certificate evidencing General Liability coverage, naming the HHA as an additional insured, together with the appropriate endorsement to said policy reflecting the addition of the HHA as an additional insured under said policy (minimum of \$1,000,000 each occurrence, general aggregate minimum limit of \$1,000,000, together with damage to premises and fire damage of \$50,000 and medical expenses any one person of \$5,000), with a commercially reasonable deductible (e.g. "commercially reasonable," meaning at least 1% of the "general aggregate minimum" of the policy, with a maximum deductible amount of \$5,000;
- 5.3.3 Professional Liability Insurance.** *(If applicable)* An original certificate showing the proposer's professional liability and/or "errors and omissions" coverage (minimum of \$1,000,000 each occurrence, general aggregate minimum limit of \$1,000,000), with a commercially reasonable deductible (e.g. "commercially reasonable," meaning at least 1% of the "general aggregate minimum" of the policy, with a maximum deductible amount of \$5,000;
- 5.3.4 Automobile Insurance.** An original certificate showing the proposer's automobile insurance coverage in a combined single limit of \$1,000,000. For every vehicle utilized during the term of this program, when not owned by the entity, each vehicle must have evidence of automobile insurance coverage with limits of no less than \$100,000/\$300,000 and medical pay of \$5,000.
- 5.3.5 City/County/State Business License.** If applicable, a copy of the proposer's business license allowing that entity to provide such services within the City of Huntsville, Madison County, and the State of Alabama.

- 5.3.6 Certificates/Profile of Firm Form.** Pertaining to the aforementioned insurance certificates and licenses, each proposer is required to enter related information where provided for on the Profile of Firm Form (*do not attach or submit copies of the insurance certificates or licenses within the bid submittal—we will garner the necessary documents from the successful bidder prior to contract execution*).
- 5.4 Right to Negotiate Final Fees.** The HHA shall retain the right to negotiate the amount of fees that are paid to the Contractor, meaning the fees proposed by the top-rated bidder may, at the HHA's options, be the basis for the beginning of negotiations. Such negotiations shall begin after the HHA has chosen a top-rated bidder. If such negotiations are not, in the opinion of the ED successfully concluded within 5 business days, the HHA shall retain the right to end such negotiations and begin negotiations with the next-rated bidder. The HHA shall also retain the right to negotiate with and make an award to more than one bidder, as long as such negotiation(s) and/or award(s) are addressed in the same above manner (i.e. top-rated firsts, then next rated following until a successful negotiation is reached).
- 5.5 Contract Service Standards.** All work performed pursuant to this IFB must conform and comply with all applicable local, state and federal codes, statutes, laws and regulations.
- 5.6 Prompt Return of Contract Documents.** Any and all documents required to complete the contract, including contract signature by the successful bidders, shall be provided to the HHA within 5 workdays of notification by the HHA.



Growing Communities One Family At A Time

IFB NO. 2024-04
REROOFING NORTHWOODS

ATTACHMENTS *(Affidavits and Certifications)*

	BID COST FORM - <i>Return with bid submittal</i>
A	Form of Bid - <i>Return with bid submittal</i>
B	Profile of Firm Form - for Prime and Sub Contractors , make necessary copies
C	Form HUD-5369-A (11/92), Representations, Certifications - <i>Return with bid submittal</i>
D	Form HUD 92010 <i>Equal Employment Opportunity Certification</i>
E	Form HUD 50070 <i>Certification of a Drug-Free Work Place</i>
F	Section 3 Compliance Agreement
G	Section 3 Business Concern Form (if applicable)
H	E-Verify Form – <i>Contractor's Affidavit</i>

BID COST FORM

**INVITATION FOR BIDS (IFB)
IFB NO. 2024-04
REROOFING FOR NORTHWOODS
(Return with Bid-page 1 of 3)**

In compliance with the above, the undersigned offers and agrees, if the bid is accepted within 90 days from the date of the bid deadline, to furnish all of the items upon which prices are quoted, at the price set forth, delivery at the designated point and within the time specified in the contract.

➤ **BASE BID**

For construction complete as shown and specified, the sum of:

_____ (\$ _____)
(Written) (Numerical)

The undersigned agrees to furnish all materials, labor, equipment, supervision, insurance, taxes, licenses, and other services required for water line replacements services in accordance with the Specifications for HHA's **IFB No 2024-04** including any Addenda (if provided).

ALTERNATE DEDUCTS

The undersigned further purposes that should the following alternate be accepted and be incorporated into the Contract; the Base Bid will be altered as follows:

ALTERNATE DEDUCT NO. 1 – Re-Roof 1400 and 1402 Arctic St. at Northwoods Dollars (\$ _____)

ALTERNATE DEDUCT NO. 2 – Re-Roof 1404 and 1406 Artic St. at Northwoods Dollars (\$ _____)

ALTERNATE DEDUCT NO. 3 – Re-Roof 1407 and 1408 Artic at Northwoods Dollars (\$ _____)

ALTERNATE DEDUCT NO. 4 – Re-Roof 1401, 1403 and 1405 Artic St. at Northwoods Dollars (\$ _____)

ALTERNATE DEDUCT NO. 5 – Re-Roof 1402 Yukon (Admin Building) at Northwoods Dollars (\$ _____)

COMPLETION DATE

Work under the Contract is to be substantially complete one hundred twenty **(180)** calendar days from the date of Notice to Proceed.

NAME OF BIDDER: _____

ADDRESS: _____

CITY: _____

STATE & ZIP CODE: _____

PHONE: _____ FAX: _____

EMAIL: _____

INVITATION FOR BIDS (IFB)
IFB NO. 2024-04
REFOOFING FOR NORTHWOODS
(Return with Bid-page 2 of 3)

In compliance with the bidding documents, the undersigned, in making this bid, represents the following:
(Contractor is to initial each line item to certify agreement)

Bidder's Initials

- _____ 1. Contractor has read and understands the bidding documents, and Contractor's bid is made in accordance therewith;

- _____ 2. Contractor has reviewed the contract for **Reroofing for Northwoods** prepared by HHA and understands that it will apply to this project and his/her bid is made in accordance therewith;

- _____ 3. Contractor has had the opportunity to visit the site, has familiarized himself/herself with the local conditions under which the work is to be performed and has correlated his/her observations with the requirements of the bidding documents;

- _____ 4. Contractor has included in his bid the cost of all labor, material and items required for the proper execution and completion of the work during the sewer line replacements work;

- _____ 5. Contractor's bid is based upon the materials, system and equipment required by the bidding documents without exception;

- _____ 6. Contractor is licensed and qualified under the laws of the State of Alabama to perform the quantity and type of work shown on the IFB and Contract documents;

- _____ 7. Contractor has reviewed the HHA policy on Section 3 compliance provided. All bidders will be required to meet the HHA minimum required for Section 3, non-compliance is not an option.

List of Acknowledged Addenda (if no addenda published, leave blank)

No. _____ dated _____
No. _____ dated _____
No. _____ dated _____
No. _____ dated _____

No. _____ dated _____
No. _____ dated _____
No. _____ dated _____
No. _____ dated _____

INVITATION FOR BIDS (IFB)
IFB NO. 2024-04
REROOFING FOR NORTHWOODS
(Return with Bid-page 3 of 3)

The Undersigned Bidder agrees to the following:

- This bid will not be modified, withdrawn or canceled during the (90) day period following the time and date designed for the receipt of the bid.
- HHA reserves the right to reject and or all bids and waive any informality in the bidding process.
- The undersigned certifies that he/she is authorized to execute contracts on behalf of the bidder as legally names, that the bid proposal is submitted in good faith without fraud or collusion with any other bidder, that the information indicated in the document is true and complete, and that the bid is made in full accord with State Law.

SIGNATURE OF PERSON AUTHORIZED TO SIGN BID

DATE

PRINT NAME

TITLE: _____

General Contractor's License _____ **(attach copy of license)**

Business License# _____ **(attach copy of license)**
Copy of the business license allowing the contractor to provide such services.

**FORM OF BID
(Attachment A)**

(This Form must be fully completed and placed under Tab No. 1 of the “hard copy” tabbed proposal submittal.)

Instructions: Unless otherwise specifically required, the items listed below must be completed and included in the proposal submittal. Please complete this form by marking an “X,” where provided, to verify that the referenced completed form or information has been included within the “hard copy” proposal submittal submitted by the proposer.

X=ITEM INCLUDED	TAB NO.	SUBMITTAL ITEMS
_____	1	Form of BID <i>(Attachment A)</i>
_____	2	Profile of Firm Form <i>(Attachment B)</i>
_____	3	Bid Cost Form
_____	3	Bid Bond or Cashier’s Check
_____	3	Copy of License
_____	4	Proposed Services
_____	5	Managerial Capacity/Financial Viability
_____	6	Client Information
_____	7	Form HUD-5369-A Representations, Certifications <i>(Attachment C)</i>
_____	7	Form HUD 92010 Equal Employment Opportunity <i>(Attachment D)</i>
_____	7	Form HUD-50070 Certification for Drug-Free Workplace <i>(Attachment E)</i>
_____	7	E-Verify Form <i>(Attachment F)</i>
_____	8	Section 3 Utilization Compliance Plan <i>(Attachment G)</i>
_____	9	Section 3 Business Preference (Optional) <i>if applicable</i> <i>(Attachment H)</i>
_____	10	Subcontractor/Joint Venture Information (Optional Item)
_____	11	Other Information (Optional)

SECTION 3 STATEMENT

Are you claiming a Section 3 business preference? YES ___ or NO ___. If “YES,” pursuant to the Section 3 portion within the Conditions and Specifications, and pursuant to the documentation justifying such submitted under Tab No. 10, which priority are you claiming? _____.

PROPOSER’S STATEMENT

The undersigned proposer hereby states that by completing and submitting this Form and all other documents within this proposal submittal, he/she is verifying that all information provided herein is, to the best of his/her knowledge, true and accurate, and that if HHA discovers that any information entered herein to be false, such shall entitle HHA to not consider or make award or to cancel any award with the undersigned party. Further, by completing and submitting the proposal submittal, and by entering and submitting the costs where provided, the undersigned proposer is thereby agreeing to abide by all terms and conditions pertaining to this RFP as issued by HHA, including an agreement to execute the attached Sample Contract form. Pursuant to all RFP Documents, this Form of Proposal, and all attachments, and pursuant to all completed Documents submitted, including these forms and all attachments, the undersigned proposes to supply HHA with the services described herein for the fee(s) entered within the areas provided within the noted form to this RFP.

Signature

Date

Printed Name

**ATTACHMENT B
PROFILE OF FIRM FORM**

(This Form must be fully completed and placed in the proposal submittal.)

PRIME _____

(This form must be completed by each prime contractor by making additional copies if necessary)

- (1) Name of Firm: _____
- (2) Address, City, State, Zip: _____
- (3) Telephone: _____ Fax: _____
- Mobile: _____
- Email: _____

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

- | | | | |
|--|--|--|--|
| <input type="checkbox"/> Caucasian
American (Male)
_____ % | <input type="checkbox"/> Public-Held
Corporation
_____ % | <input type="checkbox"/> Government
Agency
_____ % | <input type="checkbox"/> Non-Profit
Organization
_____ % |
|--|--|--|--|

Resident – (RBE), Minority- (MBE), or Woman-Owned (WBE) Business Enterprise (Qualifies by virtue of 51% or more ownership and active management by one of more of the following:

- | | | | | | |
|--|--|---|--|---|--|
| <input type="checkbox"/> Resident-
Owned
_____ % | <input type="checkbox"/> African
American
_____ % | <input type="checkbox"/> Native
American
_____ % | <input type="checkbox"/> Hispanic
American
_____ % | <input type="checkbox"/> Asian/Pacific
American
_____ % | <input type="checkbox"/> Asian/Indian
American
_____ % |
| <input type="checkbox"/> Woman-Owned
(MBE)
_____ % | <input type="checkbox"/> Woman-Owned
(Caucasian)
_____ % | <input type="checkbox"/> Disabled
Veteran
_____ % | <input type="checkbox"/> Other
(Specify)
_____ % | | |

WMBE Certification Number: _____
 Certified by: _____ (Agency)
(NOTE: A CERTIFICATION / NUMBER NOT REQUIRED TO PROPOSE – ENTER IF AVAILABLE)

(5) Identify Principals/Partners in Firm (submit under **Tab No. 5** a brief professional resume for each):

NAME	TITLE	% OF OWNERSHIP

(6) Identify the individual(s) that will act as project manager and any other supervisory personnel that will work on project; please submit under **Tab No. 5** a brief resume for each. (Do not duplicate any resumes required above):

NAME	TITLE

- (8) Federal Tax ID No. _____
- (9) DUNNS No. _____
- (10) Alabama Business License No. _____
- (11) State of _____ License Type and No.: _____
- (12) General Liability Insurance Carrier: _____
Policy No. _____ Expiration Date _____
- (13) Worker's Compensation Insurance Carrier: _____
Policy No. _____ Expiration Date _____
- (14) Professional Liability Insurance Carrier: _____
Policy No. _____ Expiration Date _____

(15) Debarred Statement: Has this firm or any principal(s) ever been debarred from provided any services by the Federal Government, any state government, the State of Alabama, or any local government agency within or without the State of Alabama? Yes No
If "Yes" please attach a full detailed explanation, including dates, circumstances and current status.

(16) Disclosure Statement: Does this firm or any principals thereof have any current past personal or professional relationship with any Commissioner or Officer of HHA? Yes No
If "Yes" please attach a full detailed explanation, including dates, circumstances and current status.

(17) **Non-Collusive Affidavit:** The undersigned party submitting this proposal or bid hereby certifies that such proposal or bid is genuine and not collusive and that said proposer entity has not colluded, conspired, connived or agreed, directly or indirectly, with any proposer or person to put in a sham proposal or bid or to refrain from proposing or 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 proposal or bid price of affiant or of any other proposer or bidder, to fix overhead, profit or cost elements of said proposal or bid price, or that any other proposer or bidder or to secure any advantage against the Housing Authority or any person interested in the proposed contract; and that all statements in said proposal or bids are true.

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

(19) **Code of Alabama §11-93-2. Maximum amount of damages recoverable against governmental entities; settlement or compromise of claims not to exceed maximum amounts.**

The recovery of damages under any judgment against a governmental entity shall be limited to \$100,000.00 for bodily injury or death for one person in any single occurrence. Recovery of damages under any judgment or judgments against a governmental entity shall be limited to \$300,000.00 in the aggregate where more than two persons have claims or judgments on account of bodily injury or death arising out of any single occurrence. Recovery of damages under any judgment against a governmental entity shall be limited to \$100,000.00 for damage or loss of property arising out of any single occurrence. No governmental entity shall settle or compromise any claim for bodily injury, death or property damage in excess of the amounts herein above set forth. (Acts 1977, No. 673, p. 1161, §2.)

Signature

Date

Printed Name

Title

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

Office of Public and Indian Housing

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

Representations, Certifications, and Other Statements of Bidders

Public and Indian Housing Programs

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1. Certificate of Independent Price Determination

(a) The bidder certifies that--

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2. Contingent Fee Representation and Agreement

(a) Definitions. As used in this provision:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4. Organizational Conflicts of Interest Certification

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

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

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

5. Bidder's Certification of Eligibility

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

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

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

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

6. Minimum Bid Acceptance Period

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

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

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

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

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

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

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

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

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

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

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

(Check the block applicable to you)

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

8. Indian-Owned Economic Enterprise and Indian Organization Representation

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

The bidder represents and certifies that it:

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

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

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

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

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

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

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

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

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

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

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

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

(1) Obtain identical certifications from the proposed subcontractors;

(2) Retain the certifications in its files; and

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

Notice to Prospective Subcontractors of Requirement for Certifications of Nonsegregated Facilities

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

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

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

The bidder certifies that:

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

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

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

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

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

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

13. Bidder's Signature

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

(Signature and Date)

(Typed or Printed Name)

(Title)

(Company Name)

(Company Address)

Equal Employment

U.S. Department of Housing
and Urban Development

Department of Veterans Affairs

Opportunity Certification

Excerpt From 41 CFR §60-1.4(b)

Office of Housing
Federal Housing Commissioner

OMB Control No. 2502-0029
(exp. 7/31/2009)

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

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

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

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

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

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

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

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

Firm Name and Address

By

Title

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

Excerpt from HUD Regulations

200.410 Definition of term "applicant".

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

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

- (a) The following equal opportunity clause shall be included in each contract and subcontract which is not exempt:
During the performance of this contract, the contractor agrees as follows:
 - (1) The contractor will not discriminate against any employee or applicant for employment because of race, creed, color, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, creed, color, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of the nondiscrimination clause.
 - (2) The contractor will in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard race, creed, color, or national origin.
 - (3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided, advising the said labor union or workers' representative of the contractor's commitments under this section, and shall post copies of the notices in conspicuous places available to employees and applicants for employment.
 - (4) The contractor will comply with all provisions of Executive Order 10925 of March 6 1961, as amended, and of the regulations, and relevant orders of the President's Committee on Equal Employment Opportunity created thereby.

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

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

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

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

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

- (a) The following transactions and contracts are exempt from the regulations in this subpart:
 - (1) Loans, mortgages, contracts and subcontracts not exceeding \$10,000.
 - (2) Contract and subcontracts not exceeding \$100,000 for standard commercial supplies or raw material;
 - (3) Contracts and subcontracts under which work is to be or has been performed outside the United States and where no recruitment of workers within the United States is involved. To the extent that work pursuant to such contracts is done within the United States, the equal opportunity clause shall be applicable;
 - (4) Contracts for the sale of Government property where no appreciable amount of work is involved; and
 - (5) Contracts and subcontracts for an indefinite quantity which are not to extend for more than one year if the purchaser determines that the amounts to be ordered under any such contract or subcontract are not reasonably expected to exceed \$100,000 in the case of contracts or subcontracts for standard commercial supplies and raw materials, or \$10,000 in the case of all other contracts and subcontracts.

Certification for a Drug-Free Workplace

U.S. Department of Housing
and Urban Development

Applicant Name _____

Program/Activity Receiving Federal Grant Funding _____

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

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

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

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

(1) The dangers of drug abuse in the workplace;

(2) The Applicant's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.

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

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

(1) Abide by the terms of the statement; and

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

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

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

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

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

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

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

I hereby certify that all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate.

Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

Name of Authorized Official _____

Title _____

Signature _____

Date _____

X



CONTRACTOR AFFIDAVIT

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

Federal Work Authorization User Identification Number: _____

Date of Authorization: _____

Name of Contractor: _____

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

Executed on _____, 20____ **in** _____ **(city),**
_____ **(state).**

Signature of Authorized Officer or Agent

Printed Name and Title of Authorized Officer or Agent

SUBSCRIBED AND SWORN BEFORE ME
ON THIS THE _____ **DAY OF** _____, 20____.

NOTARY PUBLIC

My Commission Expires:



Growing Communities One Family At A Time

The following forms are attached and are part of the **IFB** documents. Please note that HHA has no legal right or ability to (and will not) at any time negotiate any clauses contained within **ANY** of the HUD forms included as part of this **IFB**.

ATTACHMENT	HUD DOCUMENTS (Information ONLY-Not part of Bid Submittal)
I	<i>Supplemental Instructions To Bidders & Contractors (SIPC)</i>
J	Sample Contract Form <i>(please note that this contract and any noted appendices are being given as a sample only—the HHA reserves the right to revise any clause herein and/or to include within the ensuing contract any additional clauses that the HHA feels it is in its best interests to do so)</i>
K	Form HUD-5370EZ <i>General Conditions for Small Construction/Development Contracts</i>
L	Title 24: Housing and Urban Development PART 135- Economic Opportunities for low-and very low-income persons
M	HUD-4010 <i>Federal Labor Standards</i>
N	HUD 51000 <i>Schedule of Amounts for Contract Payments</i>
O	HUD 51001 <i>Periodic Estimate for Partial Payments</i>
P	HUD 51002 <i>Schedule of Change Orders</i>
Q	HUD 51003 <i>Schedule of Materials Stored (to support partial Payment Form)</i>
R	HUD 51004 <i>Summary of Materials Stored (to summarize value of materials)</i>
S	HUD 5372 <i>Construction Progress Schedule</i>
T	HUD 5369 <i>Instructions to Bidders for Contracts</i>
U	HUD 92554M <i>Supplementary Conditions of the Contract for Construction</i>
V	24 CFR 75 Section 3 Regulations

ATTACHMENT I

Instructions To Bidders & Contractors (ITBC)

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1.0 GENERAL CONDITIONS:

- 1.1 Applicability:** If referred to within the text of such, these ITBC shall be applicable to all Invitation For Bids (IFB) solicitations that Huntsville Housing Authority (HHA) conducts and shall be applicable to any contract that HHA awards to or signs with any firm, agency or individual pursuant to that IFB. A copy of these ITBC shall be made available to any actual or prospective bid, or contractor who does business with or intends to do business with HHA.
- 1.1.1** Unless otherwise specified within the IFB or contract documents, in the event that any provision in any document listed herein conflicts with any provision within these ITBC, the provision in the IFB or contract document shall govern. Further, in the case of any attached HUD forms (more specifically: HUD-5369 (10/2002); HUD-5369-A (11/92); and HUD-5370 (01/2013)), the information within such HUD form(s) shall govern any other information issued, especially that issued within any HHA-created forms that are issued as a part of this solicitation.
- 1.2 Definitions** (pertaining to all IFB documents issued by HHA pertaining to this IFB, including the attachments and the ensuing contract):
- 1.2.1** "**Contracting Officer**" when named within an IFB document shall refer to either the ED or the person he/she has delegated such responsibilities to.
- 1.2.2** "**Contract**" refers to the fully executed written agreement that ensues from the IFB. Whereas all IFB documents are included, by reference, as a part of the ensuing contract, when "contract" is referred to within the IFB document, such is referring to both the IFB documents and the ensuing contract document.
- 1.2.3** "**Contractor**" and the term "successful bidder" may be used interchangeably.
- 1.2.4** "**Days**" unless otherwise directed, shall refer to calendar days.
- 1.2.5** "**ED**" is HHA Executive Director.
- 1.2.6** "**HHA**" is Huntsville Housing Authority. Unless otherwise defined herein or within the ensuing contract, whenever the term "HA" is used without clearly designating a responsible HA staff person, the bidder(s) shall assume that responsibility for that item rests with the CO.
- 1.2.7** "**HUD**" is the United States Department of Housing and Urban Development. HUD is the Federal agency that HHA receives some funding from; however, pertaining to this IFB, correspondences, including bid submittals, received from each bidder must exhaust all provisions contained herein prior to contacting HUD (i.e. in the case of a protest).
- 1.2.8** "**Herein**" shall refer to all documents issued pursuant to the noted IFB, including the IFB documents and the attachments.
- 1.2.9** "**Offer**" is the bid submittal referred to within the following Section 1.2.14 that the bidder delivers to HHA in response to the IFB.
- 1.2.10** "**Offeror**" or "**Offerors**" are the bidder or bidders.

- 1.2.11 **"Parties"** - When "the parties," "both parties" or "either party" is stated within the IFB documents or the contract, such refers to HHA and the successful bidder(s).
- 1.2.12 **"Bid" and/or "Bid Submittal"** is the "hard copy" document that the bidder is required to, as detailed within the IFB document, deliver to HHA.
- 1.2.13 **"Protestant"** is a prospective bidder or bidder who feels that he/she has been treated inequitably by HHA and wishes HHA to correct the inequitable condition or situation. To be eligible to file a protest with HHA pertaining to an IFB or contract, the protestant must have been involved in the IFB process in some manner as a prospective bidder (i.e. registered and received the IFB documents).
- 1.2.14 **"Prospective Bidder" or "Bidder"** - A prospective bidder is a firm or individual who has been notified of the IFB solicitation and/or who has requested and/or received the IFB documents and is considering responding with a bid; a bidder is a firm or individual who has submitted a bid in response to the IFB. All terms and conditions shall apply equally to all prospective bidders as well as bidders, though prospective bidders may not, after the deadline set for receiving bids, receive further notices pertaining to that IFB--meaning, certain notices (such as the Notice of Results of Evaluation) are typically only delivered to bidders and not to all prospective bidders.
- 1.2.15 **"Invitation For Bids" (IFB)** is the competitive bid process allowed by HUD, especially as defined within Chapter 6 of HUD Procurement Handbook 7460.8 REV 2.
- 1.2.16 **"IFB Document(s)"** - Whether stated in the singular or the plural, such refers to the body of documents, including attachments and the information posted on the nahro.economicengine.com Internet site (hereinafter, the "noted InternetSystem" or the "System), that HHA makes available to all prospective bidders wherein is detailed HHA's requirements.
- 1.2.17 **"Solicitation" or "Competitive Solicitation"** is the IFB process detailed herein.

2.0 CONDITIONS TO BID:

- 2.1 **Pre-Qualification of Bidders:** Prospective bidders will not be required to pre-qualify in order to submit a bid. However, all bidders will be required to submit adequate information showing that the bidder is qualified to perform the required work (i.e. Profile of Firm Form and required resumes). Failure by the prospective bidder to provide the requested information may, at HHA's discretion, eliminate that bidder from consideration, provided that all bidders were required to submit the same information as a part of the IFB process (in the case of a successful bidder(s), these requirements shall also apply in the context of the successful bidder or bidders).
- 2.2 **IFB Forms, Documents, Specifications and Drawings:**
- 2.2.1 It shall be each prospective bidder's responsibility to, prior to submitting a bid in response to the IFB, examine carefully and, as may be required, properly complete and submit all documents issued pursuant to this IFB.

- 2.2.2 Unless otherwise instructed, specifications and drawings (if provided) do not purport to show all of the exact details of the work. They are intended to illustrate the character and extent of the performance desired under the proposed contract and may be supplemented or revised from time to time.
- 2.2.3 HHA shall reserve the right to, prior to award, revise, change, alter or amend any of the instructions, terms, conditions, and/or specifications identified within the IFB documents issued, within any attachment or drawing, or within any addenda issued; such notice shall be delivered in writing to each prospective and/or actual bidder. Such changes that are issued before the deadline for receipt of bids shall be binding upon all prospective bidders. Such changes that are issued after the receipt of bids, but prior to award shall be binding upon all parties that have submitted bids; however, such parties shall be allowed to reject such changes by, within 5 days of receipt of such written notice, withdrawing his/her bid. Such withdrawal must be delivered, in writing, to the CO within the 5-day deadline period.

2.3 Bid Preparation, Submission and Receipt by HHA:

- 2.3.1 **Required Forms:** All required forms furnished by HHA as a part of the IFB document issued shall, as instructed, be fully completed and submitted by the bidder. Such forms may be completed in a legible hand-written fashion, by use of a typewriter, or may be downloaded and completed on a computer. If, during the download, a form becomes changed in any fashion, the bidder must "edit" the form back to its originally form (for example, signature lines must appear on the page the line was originally intended to be on).
- 2.3.2 **Manner of Submission:** The bid submittal shall be submitted in the manner detailed within the IFB document. Failure to submit the bid in the manner specified may result in a premature opening of, post-opening of, or failure to open and consider that bid, and may, at the discretion of the CO, eliminate that bidder from consideration for award.
- 2.3.3 **Time for Receiving Bids:** Bids received prior to the time set as the deadline for the receipt by HHA of the bid submittal shall be securely kept, unopened, by HHA. The CO, whose duty it is to open such bids, will decide when the specified time has arrived. No bid received after the designated deadline shall be considered, except as detailed Form HUD-5369-A (8/93), *Late Submissions, Modifications and Withdrawal of Offers*.
- 2.3.3.1 Bidders are cautioned that any bid submittal that may be time-stamped as being received by HHA after the exact time set as the deadline for the receiving of bids shall be returned unopened to the bidder. Any such bids inadvertently opened shall not be considered, but shall be ruled to be invalid. No responsibility will attach to HHA or any official or employee thereof, for the pre-opening of, or the failure to open a bid not properly addressed and identified.

- 2.3.4 Public Opening of Bids:** Pursuant to the IFB process, bids shall be publicly opened at the day and time published in the IFB documents. At the bid opening, only the name of the company and the pertinent cost information will be read aloud (for instance, in the case of bids with multiple line items in a number that it is not realistic to read all item, only the actual or calculated total may be read. The full determination of responsiveness (i.e. minimum compliance with the requirements of the IFB) and responsibility will be conducted by an HHA official in private after the public bid opening. Persons other than HHA staff involved in this process are not allowed to be present during the responsive and responsibility evaluations, nor may they inspect the bids until after award has been completed.
- 2.3.5 Withdrawal of Bids:** Bids may be withdrawn as detailed Form HUD-5369-A (8/93), *Late Submissions, Modifications and Withdrawal of Offers*. Negligence on the part of the bidder in preparing his/her bid confers no right of withdrawal or modification of his/her bid after such bid has been received and opened.
- 2.3.6 Conflicting Conditions:** Any provisions detailed within any of the IFB documents which may be in conflict or inconsistent with any of the paragraphs in any of the other IFB documents, including attachments, shall be void to the extent of any such conflict or inconsistency. Further, as stated within Section 1.1.1 of this ITBC, unless otherwise specified within the IFB or contract documents, in the event that any provision in any document listed herein conflicts with any provision within this ITBC, the provision in the IFB or contract document shall govern.
- 2.3.7 Interpretations:** No official oral interpretation can be made to any bidder as to the meaning of any instruction, condition, specifications drawing (if any), or any other document issued pertaining to this IFB. Every request for an official interpretation shall be made by the prospective bidder, in writing, pursuant to the schedule set within the IFB document issued and as directed by HHA. Official interpretations will be issued in the form of addenda, which will be delivered to each bidder; but it shall be the prospective bidder's responsibility to make inquiry as to addenda issued. All such addenda shall become a part of the IFB documents and the proposed contract with the successful bidder, and all bidders shall be bound by such addenda, whether or not received by the prospective or successful bidder(s).

2.4 Exceptions to Specifications:

- 2.4.1** A bidder may take exception to any of the bid documents or any part of the information contained therein, by submitting, in writing to the CO, at least 10 days prior to the bid deadline, a complete and specific explanation as to what he/she is taking exception to. Proposed alternate documents or information must also be included. A response by HHA will be issued in writing within 5 days of receipt of such exception request. HHA reserves the right to agree with the prospective bidder and issue a revision to the applicable IFB requirements, or may reject the prospective bidder's request.
- 2.4.2** When taking exception, prospective bidders must bid services that meet the requirements of the IFB documents. Exceptions to the specification and/or approved "equal" requests may be discussed at the scheduled pre-bid conference (if scheduled). All verbal instructions issued by HHA officers not already listed within the IFB documents shall only become official when issued as addenda or as a written answer issued pursuant to receipt of a written question.

2.5 Lump Sum Cost Breakdown (LSCB):

2.5.1 HHA reserves the right to, at any time, request and receive from any or all bidders a LSCB of any or all of the costs bided. The bid documents constitute an outline of the work to be completed by the bidder. These documents are intended to include all major items, and the lump sum cost breakdown computed therefrom will be the maximum compensation for all work and materials whatsoever furnished by the bidder in order to comply with the bid documents in their present form, whether or not indicated in the approximate quantities or pertaining to the items of work as listed.

2.5.1.1 The purpose of this LSCB will serve HHA in two distinct areas:

2.5.1.1.1 **Prior to award of bids:** HHA may request a LSCB for any or all items reflected within the IFB document as “lump sum” for the purpose of determining an unbalanced cost bid. The CO, using acceptable methods dictated by the industry, shall conduct the analysis.

2.5.1.1.2 **After award:** HHA may request a LSCB for any or all items reflected within the IFB document as “lump sum” for the purpose of making partial payments to the successful bidder.

2.5.1.1.3 Under no circumstances, may any cost item reflected as “lump sum” be increased/decreased as a result of the LSCB analysis.

3.0 BID EVALUATION:

3.1 **Bid Opening Results:** It is understood by all bidders/prospective bidders that the bids received will be publicly opened and read aloud and the results will immediately be a matter of public record; meaning, HHA will record all bids on a bid tabulation and make such tabulation available to any person upon request.

3.1.1 Bid documents submitted by the bidders shall not be a matter of public record until after award has been completed. HHA shall, however, upon request, verify that the bid documents submitted are/were acceptable.

3.2 **Award of Bid(s):** The successful bidder shall be determined as the responsive and responsible bidder who submits the lowest actual or calculated cost as detailed with the IFB, as long as he/she is able to deliver the specified items in a timely manner and it is, in the opinion of HHA, to the best interests of HHA to accept the bid. All bidders will be notified in a timely manner of the results of the evaluation after award has been completed.

3.3 Rejection of Bids:

3.3.1 HHA reserves the right to, at any time during the bid process, reject any or all bids received. In the case of rejection of all bids, HHA reserves the right to advertise for new bids or to proceed to do the work otherwise, if in the judgment of HHA, the best interest of HHA will be promoted.

- 3.3.2** Prospective bidders acknowledge by downloading and receiving the IFB documents and/or by submitting a bid that the submission of a bid to HHA is not a right by which to be awarded that bid, but merely an offer by the prospective bidder to perform the requirements of the IFB documents in the event HHA decides to consider an award to that bidder.
- 3.4 Cancellation of Award:** HHA reserves the right to, without any liability, cancel the award of any bid(s) at any time before the execution of the contract documents by all parties.
- 3.5 Mistake in Bid Submitted:**
- 3.5.1** A request for withdrawal of a bid due to a purported error need not be considered by HHA unless the same is filed in writing by the bidder within 48 hours after the bid deadline (bidders may of their own volition withdraw a bid prior to the bid deadline). Any such request shall contain a full explanation of any purported error and shall, if requested by HHA, be supported by the original calculations on which the bid was computed, together with a certification and notarization thereon that such computation is the original and prepared by the bidder or his/her agent, who must be identified on the notarized form. The foregoing shall not be construed that such withdrawal will be permitted, as HHA retains the right to accept or reject any bid withdrawal for a mistake.
- 3.5.2** Unless otherwise prohibited within the IFB documents, a mistake in the cost unit pricing that does not affect the total cost sum submitted may, at HHA's discretion, be corrected by submitting a corrected cost form, together with a complete explanation in writing, of how the mistake occurred, to the CO, for his/her review. This mistake must be corrected before the issuance of contract documents.
- 3.6 Irregular Bid Submittal:** A bid shall be considered irregular for any one of the following reasons, any one or more of which may, at HHA's discretion, be cause for rejection:
- 3.6.1** If the forms furnished by HHA are not used or are altered or if the bid costs are not submitted as required and where provided (especially within the noted Internet System).
- 3.6.2** If all requested completed attachments do not accompany the bid submitted.
- 3.6.3** If there are unauthorized additions, conditional or alternate bids, or irregularities of any kind which may tend to make the bid incomplete, indefinite or ambiguous as to its meaning or give the bidder submitting the same a competitive advantage over other bidders.
- 3.6.4** If the bidder adds any provisions reserving the right to accept or reject any award or to enter into a contract pursuant to an award.
- 3.6.5** If the individual Pricing Items submitted by a specific bidder are unbalanced in the sense that the listed price of any cost item departs by more than 25% from HHA's cost estimate for that item.

- 3.7 Disqualification of Bidders:** Any one or more of the following shall be considered as sufficient for the disqualification of a bidder and the rejection of his/her bid:
- 3.7.1** Evidence of collusion among prospective or actual bidders. Participants in such collusion will receive no recognition as bidders or proposers for any future work of HHA until such participant shall have been reinstated as a qualified bidder or proposer. The names of all participants in such collusion shall be reported to HUD and any other inquiring governmental agency.
 - 3.7.2** More than one bid for the same work from an individual, firm, or corporation under the same or different name(s), unless such was specifically allowed by HHA within the bid documents issued, including by addendum.
 - 3.7.3** Lack of competency, lack of experience and/or lack of adequate machinery, plant and/or other resources.
 - 3.7.4** Documented unsatisfactory performance record as shown by past work for HHA or with any other local, State or Federal agency, judged from the standpoint of workmanship and progress.
 - 3.7.5** Incomplete work, which in the judgment of HHA, might hinder or prevent prompt completion of additional work, if awarded.
 - 3.7.6** Failure to pay or satisfactorily settle all bills due on former contracts still outstanding at the time of letting.
 - 3.7.7** Failure to comply with any qualification requirement of HHA.
 - 3.7.8** Failure to list, if required, all subcontractors (if subcontractors are allowed by HHA) who will be employed by the successful bidder(s) to complete the work of the bid contract.
 - 3.7.9** As required by the IFB documents, failure of the successful bidder to be properly licensed by the City of Huntsville and/or the State of Alabama and/or to be insured by a general liability and/or worker's compensation policy.
 - 3.7.10** Any legal reason to be determined, in good faith, to be in the best interests of HHA.
- 3.8 Burden of Proof:** If requested by HHA, it shall be the responsibility of the bidder(s) to furnish HHA with sufficient data or physical samples, within a specified time, so that HHA may determine if the goods or services offered conform to the Specifications.

4.0 Right to Protest:

- 4.1 Rights:** Any prospective or actual proposer, offeror, or contractor who is allegedly aggrieved in connection with the solicitation of a proposal or award of a contract, shall have the right to protest. An alleged aggrieved protestant claiming this right is hereby informed that these regulations do not provide for administrative appeal as a matter of right for that alleged aggrieved protestant.
- 4.1.1** An alleged aggrieved "protestant" is a prospective proposer or proposer who feels that he/she has been treated inequitably by the HHA and wishes the HHA to correct the alleged inequitable condition or situation. To be eligible to file a protest with the HHA pertaining to an RFP or contract, the alleged aggrieved protestant must have been involved in the RFP process in some manner as a prospective proposer (i.e. registered and received the RFP documents) when the alleged situation occurred. The HHA has no obligation to consider a protest filed by any party that does not meet these criteria.
- 4.2 Administrative Powers:** It is totally within the administrative powers of the HHA ED to grant or deny any requests for administrative appeal. If, in the opinion of the ED, the alleged aggrieved protestant merits an administrative review, the ED shall direct that alleged aggrieved protestant to submit additional data.
- 4.3 Procedure to Protest:** An alleged aggrieved protestant shall comply with the following protest procedures, and failure to comply in the manner prescribed shall automatically relieve the HHA from accepting or considering that protest:
- 4.3.1** The alleged aggrieved protestant must file, in writing, to the HHA PM the exact reason for the protest, attaching any supportive data. The protestant must state within the written protest document specifically (not by inference) what action by the HHA or condition is being protested as inequitable, making, where appropriate specific reference to the RFP documents issued. The protest document must also state the corrective action requested. Failure by the alleged aggrieved protestant to fully submit such information shall relieve the HHA from any responsibility to take any corrective action.
- 4.3.2** The written instrument containing the reason for the protest must be received by the PM within 10 days after the occurrence of the following:
- 4.3.2.1** the deadline for receiving proposals;
 - 4.3.2.2** receipt of notification of the results of the evaluation or the award; or
 - 4.3.2.3** the alleged aggrieved protestant knows or should have known the facts.
- 4.3.3** In any case, protests shall be filed no more than 10 days after any of the above (unless the occurrence being protested occurred in its entirety after the proposal deadline). Protests received after these dates shall not be considered.
- 4.3.4** The HHA PM shall review the written protest and supportive data, if any. He/she shall, within 10 days after receipt of the written protest, issue a written opinion and decision. This document shall state the reasons for the action taken as well as inform the alleged aggrieved protestant of the right of further administrative

review. A copy of this written opinion and decision shall be forwarded to the HHA ED.

4.3.5 Administrative Appeal: If the alleged aggrieved protestant does not agree with the written opinion and decision issued by the HHA PM, the alleged aggrieved protestant may, after receipt of the written opinion and decision issued by the HHA PM request an administrative appeal hearing be granted. The following procedures must be complied with in the manner prescribed; failure by the alleged aggrieved protestant to comply shall automatically relieve the HHA from accepting or acting on that request for administrative hearing:

4.3.5.1 The alleged aggrieved protestant must file, in writing, his/her request for an administrative hearing, to the HHA ED. This request must be filed within 10 calendar days after the receipt of the HHA PM's written opinion and decision.

4.3.5.2 The request for an administrative appeal hearing must contain the specific reasons for the appeal and all supporting data for those reasons.

4.3.5.3 It shall be within the administrative powers of the HHA ED to, after review of the request submitted, grant or deny any request for administrative appeal.

4.3.5.4 If the HHA ED, after complete review of the alleged aggrieved protestant's written request and supporting data, decides that the request does not merit further consideration, he/she shall render his/her decision in writing to the alleged aggrieved protestant. A decision rendered under this paragraph shall be made within 10 days after the receipt of the alleged aggrieved protestant's request for an administrative hearing. This decision shall be final without further administrative recourse.

4.3.5.5 If the HHA ED, after review of the alleged aggrieved protestant's written request, decides that the request merits further consideration, he/she shall forward the protestant's written request, along with a cover letter explaining why it merits further consideration and with a recap of all proposals submitted and a copy of the original written protest, to the HHA Legal Counsel for consideration. The HHA Legal Counsel shall issue to the alleged aggrieved protestant a decision, in writing, within 10 days of his/her receipt of such documents.

4.3.5.6 Such written decision delivered to the alleged aggrieved protestant shall exhaust the HHA internal protest and administrative appeal process available to the alleged aggrieved protestant.

5.0 Disputed Billings (Charges):

5.1 Procedures: In addition to the procedures detailed Form HUD-5370 (01/2013), in the event that HHA disputes any portion of its billing(s), HHA shall pay the undisputed portion of such billing and initiate the dispute-resolving procedures, as follows:

- 5.1.1 HHA's representative shall, within 10 days after HHA's receipt of such billing, formally notify the contractor's representative of all particulars pertaining to the dispute, and request that he/she investigate and respond to this issue.
- 5.1.2 If such dispute cannot be resolved by the contractor's response, within 10 days after such notification is given, the CO and the contractor's representative shall meet to discuss the matter and attempt to arrive at a resolution.
- 5.1.3 If the CO and the contractor's representative are unable to resolve the dispute through such discussion within 10 days, HHA shall, within 10 days thereafter, either:
 - 5.1.3.1 pay the disputed charges and reserve the right to submit the matter to an Arbitration Specialist or to the appropriate district court in the State of Alabama;
 - 5.1.3.2 not pay the disputed charge and submit the matter to an Arbitration Specialist or to the appropriate District Court in the State of Alabama;
- 5.1.4 The decision from arbitration will be binding upon both parties. If the decision is adverse to HHA, HHA shall pay HHA's receipt of the decision. If the decision is in favor of HHA, the contractor will either:
 - 5.1.4.1 clear the amount which is ordered from HHA account; or
 - 5.1.4.2 repay to HHA the amount ordered.

Either option shall be completed within 10 days after the contractor's receipt of the arbitrator's decision.

6.0 Required Permits: Unless otherwise stated in the IFB documents, all local, State or Federal permits which may be required to provide the services ensuing from award of this IFB, whether or not they are known to either HHA or the bidders at the time of the bid submittal deadline or the award, shall be the sole responsibility of the successful bidder and any costs submitted by the bidder shall reflect all costs required by the successful bidder to procure and provide such necessary permits.

- 6.1 **Taxes:** All persons doing business with HHA are hereby made aware that HHA is exempt from paying Alabama State Sales and Use Taxes and Federal Excise Taxes. A letter of Tax Exemption will be provided upon request.
- 6.2 **Government Standards:** It is the responsibility of the prospective bidder to ensure that all items and services bid conform to all local, State and Federal laws concerning safety (OSHA and NIOSH) and environmental control (EPA and Madison County Pollution Regulations) and any other enacted ordinance, code, law or regulation. The successful bidder shall be responsible for all costs incurred for compliance with any such possible ordinance, code, law or regulation. No time extensions shall be granted or financial consideration given to the successful bidder for time or monies lost due to violations of any such ordinance, code, law or regulations that may occur.
- 6.3 **Freight on Bill and Delivery:** All costs submitted by the successful bidder shall reflect the cost of delivering the bided items and/or services to the location(s) specified within the IFB documents or within the contract.

- 6.3.1** The successful bidder agrees to deliver to the designated location(s) on or before the date as specified in the finalized contract. Failure to deliver on or before the specified date constitutes an event of default by the successful bidder. Upon default, the successful bidder agrees that HHA may, at its option, rescind the finalized contract under the default clause herein and seek compensatory damages as provided by law.
- 6.4 Communication:** If during the period of the contract, it is necessary that HHA place toll or long distance telephone calls or telegrams in connection therewith (for complaints, adjustments, shortages, failure to deliver, etc.), it is understood that the successful bidder will bear the charge or expense for all such calls and/or telegrams.
- 6.5 Work on HHA Property:** If the successful bidder's work under the contract involves operations by the successful bidder on HA premises, the successful bidder shall take all necessary precautions to prevent the occurrence of any injury to persons or property during the progress of such work and, except to the extent that any such injury is caused solely and directly by HHA's negligence, shall indemnify HHA, and their officers, agents, servants and employees against all loss which may result in any way from any act or omission of the successful bidder, its agents, employees, or subcontractors.
- 6.6 Estimated Quantities:** Unless otherwise indicated within the IFB documents, the quantities reflected within the IFB documents, to the best of HHA's knowledge, reflect projected consumption data. These quantities are not meant to infer or imply actual consumption figures or quantities that will be purchased by HHA under the finalized contract; but, pursuant to all IFB documents, these quantities will be used as calculation figures to determine the successful bidder.
- 6.7 Warranty:**
- 6.7.1** The services provided under the contract shall conform to all information contained within the IFB documents as well as applicable Industry Published Technical Specifications, and if one of the above mentioned Specifications contains more stringent requirements than the other, the more stringent requirements shall apply.
- 6.7.2** The liability of the successful bidder to HHA (except as to title) arising out of the furnishing of the services or of its use under the terms of the contract shall not exceed the correcting of the defect(s) in the services as provided under the contract, and upon expiration of the warranty period all such liability shall terminate except under the warranty for merchantability and the warranty of fitness for a particular purpose.
- 6.8 Official, Agent and Employees of HHA Not Personally Liable:** It is agreed by and between the parties hereto that in no event shall any official, officer, employee, or agent of HHA in any way be personally liable or responsible for any covenant or agreement herein contained whether expressed or implied, nor for any statement, representation or warranty made herein or in any connection with this agreement.
- 6.9 Subcontractors:** Unless otherwise stated within the IFB documents, the successful bidder may not use any subcontractors to accomplish any portion of the services described within the IFB documents or the contract without the prior written permission of the CO.

- 6.10 Salaries and Expenses Relating to the Successful Bidders Employees:** Unless otherwise stated within the IFB documents, the successful bidder shall pay all salaries and expenses of, and all Federal, Social Security taxes, Federal and State Unemployment taxes, and any similar taxes relating to its employees used in the performance of the contract. The successful bidder further agrees to comply with all Federal, State and local wage and hour laws and all licensing laws applicable to its employees or other personnel furnished under this agreement.
- 6.11 Attorney's Fees:** In the event that litigation is commenced by one party hereto against the other in connection with the enforcement of any provision of this agreement, the prevailing party shall be paid by the losing party all court costs and other expenses of such litigation, including attorneys' fees, in a reasonable amount, to be determined by the court. The amount so allowed as attorneys' fees shall be taxed to the losing party as costs of the suit, unless prohibited by law.
- 6.12 Independent Contractor:** Unless otherwise stated within the IFB documents or the contract, the successful bidder is an independent contractor. Nothing herein shall create any association, agency, partnership or joint venture between the parties hereto and neither shall have any authority to bind the other in any way.
- 6.13 Severability:** If any provision of this agreement or any portion or provision hereof applicable to any particular situation or circumstance is held valid, the remainder of this agreement or the remainder of such provision (as the case may be), and the application thereof to other situations or circumstances shall not be affected thereby.
- 6.14 Waiver of Breach:** A waiver of either party of any terms or condition of this agreement in any instance shall not be deemed or construed as a waiver of such term or condition for the future, or of any subsequent breach thereof. All remedies, rights, undertakings, obligations, and agreements contained in this agreement shall be cumulative and none of them shall be in limitation of any other remedy, right, obligation or agreement of either party.
- 6.15 Time of the Essence:** Time is of the essence under this agreement as to each provision in which time of performance is a factor.
- 6.16 Limitation of Liability:** In no event shall HHA be liable to the successful bidder for any indirect, incidental, consequential or exemplary damages.
- 6.17 Indemnity:** To the full extent authorized by law, Contractor agrees to indemnify, hold harmless and defend HHA, its commissioners, employees, and agents from and against any and all liabilities, claims, damages, losses, suits, penalties, forfeitures, actions, decrees, judgments, attorneys' fees, court costs, and other costs and expenses incidental thereto (including but not limited to the cost of defense, settlement, judgment, and reasonable attorneys' fees) which HHA, its officers, commissioners, employees, or agents may suffer or which may be sought against, recovered from, or obtainable against HHA, its commissioners, employees, or agents, as a result of, by reason of, arising out of, on account of, or in consequence of any act or failure to act on the part of Contractor, its subcontractors or agents, or anyone directly or indirectly employed by any such subcontractors or agent, in the fulfillment or performance of the terms, conditions, or covenants that are contained in this Agreement, and which said act or failure to act is contrary to or is not authorized by this Agreement or is otherwise negligent, wanton, willful, or contrary to any

applicable law, regulation, or recognized standard of practice or performance. The covenants and obligations set forth in the preceding sentence shall exist and remain in full effect notwithstanding the fact that the occurrence which gave rise to such claim, damage, loss, liability, suit, action, judgment, or expense was caused in part by the negligence or other wrongful act of any party indemnified hereunder. Nothing contained herein shall waive any rights, privileges, immunities, or limitations of liability to which HHA is entitled under §11-93-2 of the Code of Alabama (which limits recovery for damages against a governmental entity to \$100,000 for bodily injury or death for one person in a single occurrence; \$300,000 in the aggregate for bodily injury or death for more than two persons in a single occurrence; and \$100,000 for damage or loss of property in a single occurrence) or under any other present or future statute or rule of law which limits any liability of HHA in any manner.

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

6.18 Lobbying Certification: By proposing to do business with HHA or by doing business with HHA, each bidder certifies the following:

6.18.1 No Federal appropriated funds have been paid or will be paid, by or on behalf of the bidder, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of an Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan or cooperative agreement.

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

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

6.18.4 This clause is a material representation of fact upon which reliance was placed when the award was made or entered into. The signing of a contract or acceptance of award certifies compliance with this certification, which is a prerequisite for making or entering into a contract, which is imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certifications shall be subject to civil penalty of not less than \$10,000.00 and not more than \$100,000.00 for each such failure.

6.19 **24 CFR 85.36(i), Procurement:** Pursuant to this CFR, as issued by the Office of the Secretary, HUD, HHA and the contractor each agree to comply with the following provisions and agree that any contract that ensues as a result of this IFB will include the following clauses, whether actually inserted or by reference:

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

6.19.1.1 If the contractor is in material breach of the contract, HHA may promptly invoke the termination clause detailed within HUD-5370 (01/2013), *General Conditions for Construction Contracts*, which is attached hereto, and terminate the contract for cause. Such termination must be delivered to the contractor in writing and shall fully detail all pertinent issues pertaining to the cause of and justification for the termination.

6.19.1.2 Prior to termination, HHA may choose to warn the contractor, verbally or in writing, of any issue of non-compliant or unsatisfactory performance. Such written warning may include placing the contractor on probation, thereby giving the contractor a certain period of time to correct the deficiencies or potentially suffer termination. HHA shall maintain in the contract file a written record of any such warning detailing all pertinent information. If the contractor does not agree with such action, the contractor shall have 10 days to dispute or protest, in writing, such action; if he/she does not do so within the 10-day period, he/she shall have no recourse but to accept and agree with HHA's position on the issue. The written protest must detail all pertinent information pertaining to the dispute, including justification detailing HHA's alleged incorrect action(s).

6.19.1.3 After termination, if the contractor does not agree with HHA's justification for the termination, the contractor shall have 10 days to dispute, in writing, such action; if he/she does not do so within the 10-day period, he/she shall have no recourse but to accept and agree with HHA's position on the issue. The written protest must detail all

pertinent information pertaining to the dispute, including justification detailing HHA's alleged incorrect action(s).

- 6.19.1.4 The response to any protest received shall be conducted in accordance with Section No. 4.0 of this document.
- 6.19.2 **Termination For Cause and Convenience:** As detailed Form HUD-5370 (01/2013), *General Conditions for Construction Contracts*, attached hereto.
- 6.19.3 **Executive Order 11246:** For all construction contracts awarded in excess of \$10,000, both parties hereby agree to comply with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor Regulations (41 CFR Chapter 60).
- 6.19.4 **Copeland "Anti-Kickback" Act:** For all construction or repair contracts awarded, both parties hereby agree to comply with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor Regulations (29 CFR Part 3).
- 6.19.5 **Davis-Bacon-Act:** For all construction contracts awarded in excess of \$2,000 when required by Federal Grant Program legislation, both parties hereby agree to comply with the Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented in Department of Labor Regulations (29 CFR Part 5).
- 6.19.6 **Reporting:** Both parties hereby agree to comply with any reporting requirements that may be detailed herein.
- 6.19.7 **Patent Rights:** Both parties hereby agree to comply with HUD Bulletin 90-23, which is the (a) Notice of Assistance Regarding Patent and Copyright Infringement.
- 6.19.8 **Copy Rights/Rights in Data:** In addition to the requirements contained *General Conditions for Construction Contracts*, HHA has unlimited rights to any data, including computer software, developed by the contractor in the performance of the contract specifically:
 - 6.19.8.1 Except as provided elsewhere, HHA shall have unlimited rights in data first produced in the performance of this contract; form, fit, and function data delivered under this contract; data delivered under this contract (except for restricted computer software) that constitute manuals or instructional and training material for installation, operation, or routine maintenance and repair of items, components, or processes delivered or furnished for use under this contract; and all other data delivered under this contract unless provided otherwise for limited rights data or restricted computer software.
 - 6.19.8.2 The contractor shall have the right to: use, release to others, reproduce, distribute, or publish any data first produced or specifically used by the contractor in the performance of this contract, unless provided otherwise in this clause; protect from unauthorized disclosure and use those data which are limited rights data or restricted computer software to the extent provided in this clause; substantiate use of, add or correct limited rights, restricted rights, or copyright notices and to take other appropriate action in accordance with this clause; and

establish claim to copyright subsisting in data first produced in the performance of this contract to the extent provided below.

- 6.19.8.3** For data first produced in the performance of this contract, the contractor may establish, without prior approval of the CO, claim to copyright subsisting in scientific or technical articles based on or containing data first produced in the performance of this contract. The contractor grants HHA and others acting on its behalf a paid-up, non-exclusive, irrevocable, worldwide license in such copyrighted data to reproduce, prepare derivative works, distribute copies to the public, and perform or display publicly by or on behalf of HHA.
- 6.19.8.4** The contractor shall not, without the prior written permission of the contracting Officer, incorporate in data delivered under this contract any data not first produced in the performance of this contract and which contains copyright notice, unless the contractor identifies such data and grants HHA a license of the same scope as identified in the preceding paragraph.
- 6.19.8.5** HHA agrees not to remove any copyright notices placed on data and to include such notices in all reproductions of the data. If any data delivered under this contract are improperly marked, HHA may either return the data to the contractor, or cancel or ignore the markings.
- 6.19.8.6** The contractor is responsible for obtaining from its subcontractors all data and rights necessary to fulfill the contractor's obligations under this contract.
- 6.19.8.7** Notwithstanding any provisions to the contrary contained in the contractor's standard commercial license or lease contract pertaining to any restricted computer software delivered under this contract, and irrespective of whether any such contract has been bid prior to the award of this contract or of the fact that such contract may be affixed to or accompany the restricted computer software upon delivery, the contractor agrees HHA shall have the rights set forth below to use, duplicate, or disclose any restricted computer software delivered under this contract. The terms and conditions of this contract, including any commercial lease or licensing contract, shall be subject to the following procedures.
- 6.19.8.8** The restricted computer software delivered under this contract may not be used, reproduced, or disclosed by HHA except as provided below or as expressly stated otherwise in this contract. The restricted computer software may be: used or copied for use in or with the computer(s) for which it was acquired, including use at any HHA location to which such computer(s) may be transferred; used or copied for use in or with backup computer if any computer for which it was acquired is inoperative; reproduced for safekeeping (archives) or backup purposes; modified, adapted, or combined with other computer software, provided that the modified, combined, or adapted portions of the derivative software incorporating any of the delivered, restricted computer software shall be subject to the same restrictions set forth in this contract; and used or copies for use in or transferred to a replacement computer.

6.20

Additional Federally Required Orders/Directives: Both parties agree that they will comply with the following laws and directives that HHA has received from HUD and that these same clauses will be a part of any contract that ensues as a result of this IFB:

- 6.20.1 Executive Order 11061, as amended, which directs the Secretary of HUD to take all action which is necessary and appropriate to prevent discrimination by agencies that utilize federal funds.
- 6.20.2 Public Law 88-352, Title VI of the Civil Rights Act of 1964, which provides that no person in the United States shall, on the basis of race, color, national origin or sex, be excluded from participation in, denied the benefits of, or subjected to discrimination under any program or activity which receives federal financial assistance. HHA hereby extends this requirement to the Contractor and its private contractors. Specific prohibited discriminatory actions and corrective action are described in Chapter 2, Subtitle C, Title V of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 1901 et. seq.).
- 6.20.3 Public Law 90-284, Title VIII of the Civil Rights Act of 1968., popularly known as the Fair Housing Act, which provides for fair housing throughout the United States and prohibits any person from discriminating in the sale or rental of housing, the financing of housing or the provision of brokerage services, including in any way making unavailable or denying a dwelling to any person because of race, color, religion, sex or national origin. Pursuant to this statute, HHA requires that the Contractor administer all programs and activities, which are related to housing and community development in such a manner as affirmatively to further fair housing.
- 6.20.4 The Age Discrimination Act of 1975, which prohibits discrimination on the basis of age.
- 6.20.5 Anti-Drug Abuse Act of 1988 (42 U.S.C. 11901 et. seq.).
- 6.20.6 HUD Information Bulletin 909-23 which is the following:
 - 6.20.6.1 Notice of Assistance Regarding Patent and Copyright Infringement;
 - 6.20.6.2 Clean Air and Water Certification; and
 - 6.20.6.3 Energy Policy and Conversation Act.
- 6.20.7 The mentioned herein of any statute or Executive Order is not intended as an indication that such statute or Executive Order is necessarily applicable not is the failure to mention any statute or Executive Order intended as an indication that such statute or Executive Order is not applicable. In this connection, therefore each provision of law and each clause, which is required by law to be inserted in this agreement, shall be deemed to have been inserted herein, and this agreement shall be read and enforced as though such provision or clause had been physically inserted herein. If, through mistake or otherwise, any such provision is not inserted or is inserted incorrectly, this agreement shall forthwith be physically amended to make such insertion or correction upon the application of either party.

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**AGREEMENT BY AND BETWEEN
HUNTSVILLE HOUSING AUTHORITY AND**

THIS AGREEMENT (Agreement) is made between Huntsville Housing Authority (hereinafter referred to as HHA) a public corporation with its principal office located at 200 Washington Street, Huntsville, Alabama, 35801, and

WHEREAS, HHA extended an Invitation for Bids (IFB) No. [REDACTED] to interested qualified companies to provide labor, material and equipment to repair and make ready to rent [REDACTED]; and

WHEREAS, HHA has received bids to [REDACTED]; and

WHEREAS, Contractor submitted the most responsive and responsible bid to said IFB, which appears to be in conformity with the needs of HHA.

NOW, THEREFORE, in consideration of the mutual covenants between the parties herein provided, the parties do agree to the following terms and conditions:

1. SCOPE OF SERVICES

- 1.1 Contractor shall in accordance to the terms, provisions, and specifications provided in this Agreement, HHA's IFB, and IFB attachments, all labeled as **Exhibit A**, attached hereto, and incorporated herein by reference as though fully set forth. In the case of any discrepancy between this Agreement, the IFB, and the IFB attachment documents, the requirement(s) detailed within the body of this Agreement shall take first precedence, then the requirement(s) detailed within each of the IFB, and the IFB's attachment documents.
- 1.2 Contractor's responsibility will terminate when all work has been completed, the final inspections made, and the work is accepted by the authorized HHA Contract Administrator in the manner defined by this Agreement. At all times during the performance of this Agreement until work is completed and accepted, the Contractor shall either directly superintend the work or assign and have on the work site, a competent superintendent who is satisfactory to the HHA and who has the authority to act for the Contractor. Acceptance of the work must be in writing and signed by the Contract Administrator. The Contractor shall provide prompt written notification to the Contract Administrator when all work is completed.

2. COMPENSATION-PAYMENT

- 2.1 Contractor's base bid makes up the contract price, to include all work and services, and work reasonably incidental hereto. Contractor shall be compensated in an amount Not-To- Exceed (NTE) [REDACTED] dollars (\$ [REDACTED]), for the satisfactory performance and completion of the services to be performed under this Agreement.
- 2.2 This is a fixed price Agreement and the amount specified herein as compensation is inclusive of all services, salaries, performance, supervision, materials, supplies, telephone, travel, lodging, and any and all other costs and expenses incurred in providing the services to be performed hereunder.
- 2.3 The Contractor exceeds the NTE amount at his/her own risk. The Contractor is under no obligation to provide additional services that would cause the Contractor's fees to exceed the NTE amount without prior revision of this amount by written change order (Change Order). Further, HHA reserves the right to

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amend this amount (increase/decrease) at any time during the ensuing contract period(s) when HHA determines doing so is in its best interest.

- 2.4 Contractor shall submit a detailed disbursement request, setting forth the required disbursement, and HHA shall pay the amount-required disbursement within thirty (30) business days after receipt of the disbursement request, along with any reasonably requested lien waivers from all material and subcontractors who have performed work and/or delivered materials to the Project as of the date of the disbursement request. Payment for services invoiced is subject to review and approval by the Contract Administrator.
- 2.5 During the term of this contract, Contractor, upon request from HHA, will make available for inspection by HHA, copies of payroll records, personnel records and documents, and other records and/or documents that may be used to verify Contractor's compliance with U.S. Department of Housing and Urban Development, Office of Labor Relations, Maintenance Wage Rate Determination.

3. TIME AND ORDER OF PERFORMANCE

- 3.1 Performance of this Agreement is scheduled to begin on or [REDACTED] 2014, and to be completed no later than [REDACTED] 2014, unless an extension of time is authorized by HHA and is evidenced in a written document signed by HHA and executed before the scheduled completion date. Performance of this Agreement shall commence with issuance of a Notice to Proceed by the Executive Director/CEO. The notice to proceed, upon issuance, shall become an attachment and amendment to this Agreement as though fully set forth herein and is intended to prevail over the scheduled dates, if different than those stated herein.
- 3.2 Contractor acknowledges, understands and agrees that the time for completion of the work by the scheduled date is of the essence in this agreement.
- 3.3 If Contractor fails to complete the work within the time specified in the agreement, or any extension, the contractor shall pay to HHA as liquidated damages, the sum of \$ [REDACTED] for each day of delay.
 - (a) If HHA terminates the Contractor's right to proceed, the resulting damage will consist of liquidated damages until such reasonable time as may be required for final completion of the work together with any increased costs occasioned by HHA in completing the work.
 - (b) If HHA does not terminate the Contractor's right to proceed, the resulting damage will consist of liquidated damaged until the work is completed or accepted.

4. CONTRACTOR'S OBLIGATIONS

- 4.1 Pursuant to this Agreement, the Contractor agrees to provide the specific services detailed herein and also shall be responsible for the following:
 - (a) **Supervision and Oversight.** The Contractor shall be solely responsible for providing supervision and oversight to all the Contractor's personnel that are assigned to HHA properties pursuant to this Agreement.
 - (b) **Qualified Personnel.** The Contractor warrants and represents that it will assign only qualified personnel to perform the services outlined herein and within the appendices. For the purposes of this contract, the term "qualified personnel" shall mean those personnel that have been investigated, tested and trained in the manner described within this contract and, as proposed by the Contractor within its quote or as provided by the Contractor during the Contractor's normal conduct of business.

5. **ASSIGNMENT - SUBCONTRACTING - TRANSEER**

- 5.1 HHA encourages the participation of women, HHA residents, and minority- owned businesses. Contractor will make every effort to utilize businesses owned by minorities and/or women and HHA residents for work performed under this contract.
- 5.2 Contractor shall not enter into any subcontract with any subcontractor who has been temporarily denied participation in any HUD program or who has been debarred from performing work by any agency of the United States or the State of Alabama.
- 5.3 Contractor will submit a list of all prospective subcontractors to HHA prior to commencement of work and will submit all information requested by HHA to fairly evaluate the subcontractor. HHA may disapprove of the use of any subcontractor for cause stated to Contractor. HHA's approval, disapproval, or election not to disapprove does not create an assumption of liability for acts or omissions of Contractor or subcontractor.
- 5.4 Nothing contained in this Agreement shall create a contractual relationship between any subcontractor and HHA. No subcontractor is a party to this Agreement between Contractor and HHA. This shall not be used or construed in any way to offer a third party benefit to any subcontractor, nor to any employee, vendor, or any independent contractor of any subcontractor. Contractor shall assume full responsibility for the work performed pursuant to this Agreement and shall indemnify and hold HHA harmless from all damages for claims of all subcontractors or any employees, independent contractors, or vendors of any subcontractor, which are made relative to, or arising from, work to be performed by Contractor under this Agreement.
- 5.5 Contractor shall be fully responsible for the acts or omissions of the subcontractors and the persons employed by the subcontractors.
- 5.6 The performance of services under this Agreement may not be assigned or transferred without the expressed written approval of HHA prior to such assignment or transfer. Contractor acknowledges, understands, and agrees that assignment or transfer of performance shall be at the sole discretion of HHA. Approval for the same may be denied by HHA for its own convenience.

6. **CONFLICT OF INTEREST**

No member of, or delegate to, the Congress of the United States of America, shall be admitted to any share or part of this contract or to any benefit that may arise therefore. Furthermore, no member, officer, or employee of HHA, no member of the governing body of the locality in which HHA was activated, and no other public official of such locality who exercises any functions or responsibilities with respect to HHA shall have any interest, direct or indirect, in this contract or the proceeds thereof within its tenure, or for one year thereafter.

7. **GRATUITIES-KICKBACKS-USE OF CONFIDENTIAL INFORMATION-PROGRAM INCOME**

HHA officers, employees, or agents shall not solicit nor accept gratuities, favors, or anything of monetary value from Contractors, potential contractors, or parties to subcontracts and shall not knowingly use confidential information for actual or anticipated personal gain. Contractor warrants that s/he has not paid and will not pay any person for influencing or attempting to influence an officer or employee of any agency, Member of Congress or employee of a member of Congress, or any officer or employee of Congress in connection with the awarding of an HHA contract.

8. DISPUTE RESOLUTION PROCEDURE

A Point of Contact (POC) has been assigned to this contract. The POC is an HHA representative who will oversee and manage the performance of the contract. Any controversy or dispute arising under this Agreement shall be referred to the POC and the Contract Administrator by Contractor. If Contractor, the POC, and the Contract Administrator fail to agree on a resolution of the dispute or controversy, Contractor shall give written notice of the controversy to the Executive Director/CEO for HHA, who will serve as contracting officer for this Agreement. The decision of the Executive Director/CEO (contracting officer) will be binding on both parties hereto, except as the same may be modified by a court of competent jurisdiction. HHA and Contractor hereby agree that the time and order for performance under this Contract will be in compliance with HHA's Contract Administration Plan, labeled as **Exhibit B**, attached hereto and incorporated herein by reference. The Contract Administration Plan shall identify the POC for this Agreement.

9. TERMINATION OF THE CONTRACT

- 9.1 This Agreement may be terminated for any of the following reasons: failure to deliver the services as specified, failure to perform the work in a timely manner or refusing or failing to prosecute the work or any separate portion thereof within the stipulated time, or violation of a contract clause. HHA may consider any of the foregoing events to be a default under the Agreement, and if the contract is terminated due to such a default, Contractor will not be entitled to payment for any undelivered work, services, or reports. Contractor further agrees that in the event of such a default HHA may obtain the services of another contractor for completion of the work required.
- 9.2 This contract may also be terminated for the convenience of HHA if the contracting officer determines that such would be in the best interest of HHA or in the event of absence of funding. Any such termination shall specify the extent to which the performance of the work under the contract is terminated and the date upon which such termination becomes effective. If the performance is so terminated, either in whole or in part, HHA shall pay to Contractor the prorated percentage of all services completed up to the date of termination. Percentage of completion will be determined by the POC in conjunction with the HHA contracting officer who is the Executive Director/CEO.
- 9.3 If termination is necessary, the contracting officer shall terminate the Agreement by a written notice to Contractor. Said notice shall be sent by certified mail, return receipt requested, shall be effective upon the date so indicated, and deemed received, whether signed by Contractor, its agent or representative, or is indicated as refused. If to Contractor, said notices and demands should be sent by certified mail, return receipt requested, or hand delivered to [REDACTED], with its principal office located at [REDACTED], Huntsville, Alabama [REDACTED]. If to HHA, said notices and demands shall be sent by certified mail, return receipt requested, or hand delivered to the Executive Director/CEO, Huntsville, Alabama, 200 Washington Street, Huntsville, Alabama 35801.

10. VENUE AND CONTROLLING LAW

In the event that a cause of action arises, either in law or in equity, from or in reference to any aspect of this Agreement (including those documents incorporated by reference and attached hereto), both parties agree that such action shall be filed and prosecuted in the Circuit Court of Madison County, Alabama. This Agreement shall be interpreted in accordance with the laws of the State of Alabama.

11. COMPLIANCE WITH LAWS AND REGULATIONS

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

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11.2 Contractor shall assume full liability for all contributions, taxes, or other payments required for the benefit of the employees of Contractor by Federal and/or State Unemployment Compensation Laws, the Social Security Acts or any amendments, rules or regulations thereto. In the event there are any subcontractors, Contractor shall require the subcontractor(s) to pay the same such contributions, taxes, or other payments required for the benefit of the subcontractor's employees. Contractor assumes all liability for all other future acts or laws, be they state, federal or local, requiring the payment of similar contributions or taxes for the benefit of its employees. Contractor assumes all liability for payment of any and all sales and use taxes imposed by any governmental entity arising from Contractor's performance under this Agreement.

12. MODIFICATIONS

The terms and conditions contained in this Agreement may not be added to, modified, superseded, or otherwise altered, except by a written instrument signed by the authorized representatives of HHA and Contractor, and the work shall be deemed to be only upon the terms and conditions contained in this Agreement and accompanying Exhibits, notwithstanding any terms or conditions that may be contained in any acknowledgment, invoice, or other form of Contractor or any of its suppliers, and notwithstanding HHA's act of receiving or paying for any non-conforming product, report, service, or any similar action on the part of HHA.

13. CONFLICTS IN LANGUAGE-SEVERABILITY

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

14. LIABILITY-INDEMNITY-REMEDIES

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

To the full extent authorized by law, Contractor agrees to indemnify, hold harmless, and defend HHA, its commissioners, employees, and agents from and against any and all liabilities, claims, damages, losses, suits, penalties, forfeitures, actions, decrees, judgments, attorneys' fees, court costs, and other costs and expenses incident thereto (including but not limited to the cost of defense, settlement, judgment, and reasonable attorneys' fees) that HHA, its officers, commissioners, employees, or agents may suffer or which may be sought against, recovered from, or obtainable against HHA, its commissioners, employees, or agents as a result of, by reason of, arising out of, on account of, or in consequence of any act or failure to act on the part of Contractor, its subcontractors or agents, or anyone directly or indirectly employed by any such subcontractor or agent in the fulfillment or performance of the terms, conditions, or covenants that are contained in this Agreement and which said act or failure to act is contrary to, or is not authorized by this Agreement, or is otherwise negligent, wanton, willful, or contrary to any applicable law, regulation, or recognized standard of practice or performance. The covenants and obligations set forth in the preceding sentence shall exist and remain in full effect, notwithstanding the fact that the occurrence which gave rise to such claim, damage, loss, liability, suit, action, judgment, or expense was caused in part by negligence or other wrongful act of any party indemnified hereunder. Nothing contained herein shall waive any rights, privileges, immunities, or limitations of liability to which HHA is entitled under §11-93-2 of the Code of Alabama (which limits recovery for damages against a

ATTACHMENT J

governmental entity to \$100,000 for bodily injury or death for one person in a single occurrence; \$300,000 in the aggregate for bodily injury or death for more than two persons in a single occurrence; and \$100,000 for damage or loss of property in a single occurrence) or under any other present or future statute or rule of law which limits any liability of HHA in any manner.

- 14.2 No remedy herein provided shall be deemed exclusive of any other remedy allowed in law or in equity. These provisions are specifically intended and shall survive the termination of this agreement.

15. CONTRACTOR AS INDEPENDENT CONTRACTOR

It is agreed that Contractor is an independent contractor with respect to all work and activities contemplated by this Agreement and that all of Contractor's employees, who perform work with respect to this Agreement, are the employees of Contractor and not of HHA. Contractor shall exercise complete control over the conduct of its employees and will pay all wages and applicable federal, social security, and unemployment taxes, as well as workmen's compensation insurance, with respect to such employees.

16. INSURANCE REQUIREMENTS

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

- 16.1 **General Liability Insurance.** An original certificate evidencing General Liability coverage, naming HHA as an additional insured, together with the appropriate endorsement to said policy reflecting the addition of HHA as an additional insured under said policy (minimum of \$1,000,000 each occurrence, general aggregate minimum limit of \$2,000,000, together with damage to premises and fire damage of \$100,000 and medical expenses any one person of \$5,000), with a commercially reasonable deductible (e.g. "commercially reasonable," meaning at least 1% of the "general aggregate minimum" of the policy, with a maximum deductible amount of \$50,000.
- 16.2 **Automobile Insurance.** An original certificate showing the proposer's automobile insurance coverage in a combined single limit of \$1,000,000. For every vehicle utilized during the term of this program, when not owned by the entity, each vehicle must have evidence of automobile insurance coverage with limits of no less than \$100,000/\$300,000 and medical pay of \$5,000.
- 16.3 Worker's compensation coverage evidencing carrier and coverage amount.
- 16.2 The Contractor shall provide to the HHA with current certificate(s)/endorsement(s) evidencing the insurance coverage referenced above. Failure to maintain the above-reference insurance coverage, including naming the HHA as an additional insured (where appropriate) during the term(s) of this contract shall constitute a material breach thereof.
- 16.5 Contractor shall furnish HHA with certificates of insurance reflecting the required coverage. The certificates for each insurance policy are to be signed by a person authorized by the insurance carrier to bind coverage on its behalf. All certificates are to be received and approved by HHA before work commences. HHA reserves the right to require complete, certified copies of all required insurance policies at any time. All insurance policies and certificates related thereto shall provide for, and require, reasonable notice to HHA prior to cancellation of any policy upon which HHA is an additional insured.

17. **FINANCIAL VIABILITY AND REGULATORY COMPLIANCE**

- 17.1 The Contractor warrants and represents that its corporate entity is in good standing with all applicable federal, state and local licensing authorities and that it possesses all requisite licenses to perform the services required by this contract. The Contractor further warrants and represents that it owes no outstanding delinquent federal, state or local taxes or business assessments.
- 17.2 The Contractor agrees to promptly disclose to the HHA any IRS liens or insurance or licensure suspension or revocation that may adversely affect its capacity to perform the services outlined within this contract. The failure by the Contractor to disclose such issue to the HHA in writing within 5 days of such notification received will constitute a material breach of this contract.
- 17.3 The Contractor further agrees to promptly disclose to the HHA any change of more than 50% of its ownership and/or any declaration of bankruptcy that the Contractor may undergo during the term(s) of this contract. The failure of the Contractor to disclose any change of more than 50% of its ownership and/or its declaration of bankruptcy within 5 days of said actions shall constitute a material breach of this contract.
- 17.4 All disclosures made pursuant to this section of the contract shall be made in writing and submitted to HHA within the time periods required herein.
- 17.5 **Confidentiality.** The Contractor, in connection with performing his/her services hereunder, will have access to or may be provided certain confidential information concerning HHA and agrees that any information concerning the finances, accounting practices, business, client, client lists, property information, client data, records of HHA or any other information which a reasonable person could conclude that should remain confidential (collectively Confidential Information), will not be disclosed to any party and without limitation, any employee of HHA or any client or potential client of HHA at any time, except for the Contractor's legal counsel, accounts, or financial advisors, who will also hold such Confidential Information in confidence. The Contractor acknowledges that the information is being provided with the sole understanding that all Confidential Information will remain confidential and will be held in the strictest confidence. The Contractor further acknowledges that any disclosure of the Confidential Information, whether intentional or inadvertent, may harm HHA. HHA will have the right to enforce this Contract by specific performance, as well as hold the Contractor liable for any damages caused by any disclosure of any Confidential Information, whether intentional or inadvertent. The Contractor agrees that he has received valuable consideration for the entering into of this Contract and agrees to be bound all of its terms and conditions. This Contract will be binding on the Contractor and any attorney, accountant, financial advisor who also may be provided Confidential Information.

18. **NO THIRD PARTY RIGHTS**

This Agreement shall not be construed as creating any right of any third party to enforce any provision hereof or to assert any claim against HHA.

19. **ENTIRE AGREEMENT**

All parties agree, understand, and acknowledge that this written Agreement, along with the heretofore identified attached documents that have been incorporated by reference, constitute the entire agreement of all parties. Neither party is responsible for, nor bound by, any terms or conditions not contained herein.

ATTACHMENT J

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



HUNTSVILLE HOUSING AUTHORITY

By: _____

By: _____

Title: _____

Michael O. Lundy
Executive Director/CEO

Date: _____

Date: _____

General Conditions for Construction

U.S. Department of Housing and Urban

Contracts - Public Housing Programs**Development**

Office of Public and Indian Housing

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

Applicability. This form is applicable to any construction/development contract greater than \$150,000.

This form includes those clauses required by OMB's common rule on grantee procurement, implemented at HUD in 2 CFR 200, and those requirements set forth in Section 3 of the Housing and Urban Development Act of 1968 and its amendment by the Housing and Community Development Act of 1992, implemented by HUD at 24 CFR Part 135. The form is required for construction contracts awarded by Public Housing Agencies (PHAs).

The form is used by Housing Authorities in solicitations to provide necessary contract clauses. If the form were not used, HAs would be unable to enforce their contracts.

Public reporting burden for this collection of information is estimated to average 1.0 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Responses to the collection of information are required to obtain a benefit or to retain a benefit.

The information requested does not lend itself to confidentiality.

HUD may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB number.

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1. Definitions

- (a) "Architect" means the person or other entity engaged by the PHA to perform architectural, engineering, design, and other services related to the work as provided for in the contract. When a PHA uses an engineer to act in this capacity, the terms "architect" and "engineer" shall be synonymous. The Architect shall serve as a technical representative of the Contracting Officer. The Architect's authority is as set forth elsewhere in this contract.
- (b) "Contract" means the contract entered into between the PHA and the Contractor. It includes the forms of Bid, the Bid Bond, the Performance and Payment Bond or Bonds or other assurance of completion, the Certifications, Representations, and Other Statements of Bidders (form HUD-5370), these General Conditions of the Contract for Construction (form HUD-5370), the applicable wage rate determinations from the U.S. Department of Labor, any special conditions included elsewhere in the contract, the specifications, and drawings. It includes all formal changes to any of those documents by addendum, change order, or other modification.
- (c) "Contracting Officer" means the person delegated the authority by the PHA to enter into, administer, and/or terminate this contract and designated as such in writing to the Contractor. The term includes any successor Contracting Officer and any duly authorized representative of the Contracting Officer also designated in writing. The Contracting Officer shall be deemed the authorized agent of the PHA in all dealings with the Contractor.
- (d) "Contractor" means the person or other entity entering into the contract with the PHA to perform all of the work required under the contract.
- (e) "Drawings" means the drawings enumerated in the schedule of drawings contained in the Specifications and as described in the contract clause entitled Specifications and Drawings for Construction herein.
- (f) "HUD" means the United States of America acting through the Department of Housing and Urban Development including the Secretary, or any other person designated to act on its behalf. HUD has agreed, subject to the provisions of an Annual Contributions Contract (ACC), to provide financial assistance to the PHA, which includes assistance in financing the work to be performed under this contract. As defined elsewhere in these General Conditions or the contract documents, the determination of HUD may be required to authorize changes in the work or for release of funds to the PHA for payment to the Contractor. Notwithstanding HUD's role, nothing in this contract shall be construed to create any contractual relationship between the Contractor and HUD.
- (g) "Project" means the entire project, whether construction or rehabilitation, the work for which is provided for in whole or in part under this contract.
- (h) "PHA" means the Public Housing Agency organized under applicable state laws which is a party to this contract.
- (j) "Specifications" means the written description of the technical requirements for construction and includes the criteria and tests for determining whether the requirements are met.
- (l) "Work" means materials, workmanship, and manufacture

- (a) The Contractor shall furnish all necessary labor, materials, tools, equipment, and transportation necessary for performance of the work. The Contractor shall also furnish all necessary water, heat, light, and power not made available to the Contractor by the PHA pursuant to the clause entitled Availability and Use of Utility Services herein.
- (b) The Contractor shall perform on the site, and with its own organization, work equivalent to at least [] (12 percent unless otherwise indicated) of the total amount of work to be performed under the order. This percentage may be reduced by a supplemental agreement to this order if, during performing the work, the Contractor requests a reduction and the Contracting Officer determines that the reduction would be to the advantage of the PHA.
- (c) At all times during performance of this contract and until the work is completed and accepted, the Contractor shall directly superintend the work or assign and have on the work site a competent superintendent who is satisfactory to the Contracting Officer and has authority to act for the Contractor.
- (d) The Contractor shall be responsible for all damages to persons or property that occur as a result of the Contractor's fault or negligence, and shall take proper safety and health precautions to protect the work, the workers, the public, and the property of others. The Contractor shall hold and save the PHA, its officers and agents, free and harmless from liability of any nature occasioned by the Contractor's performance. The Contractor shall also be responsible for all materials delivered and work performed until completion and acceptance of the entire work, except for any completed unit of work which may have been accepted under the contract.
- (e) The Contractor shall lay out the work from base lines and bench marks indicated on the drawings and be responsible for all lines, levels, and measurements of all work executed under the contract. The Contractor shall verify the figures before laying out the work and will be held responsible for any error resulting from its failure to do so.
- (f) The Contractor shall confine all operations (including storage of materials) on PHA premises to areas authorized or approved by the Contracting Officer.
- (g) The Contractor shall at all times keep the work area, including storage areas, free from accumulations of waste materials. After completing the work and before final inspection, the Contractor shall (1) remove from the premises all scaffolding, equipment, tools, and materials (including rejected materials) that are not the property of the PHA and all rubbish caused by its work; (2) leave the work area in a clean, neat, and orderly condition satisfactory to the Contracting Officer; (3) perform all specified tests; and, (4) deliver the installation in complete and operating condition. and fabrication of components.

2. Contractor's Responsibility for Work

(h) The Contractor's responsibility will terminate when all work has been completed, the final inspection made, and the work accepted by the Contracting Officer. The Contractor will then be released from further obligation except as required by the warranties specified elsewhere in the contract.

3. Architect's Duties, Responsibilities, and Authority

(a) The Architect for this contract, and any successor, shall be designated in writing by the Contracting Officer.

- (b) The Architect shall serve as the Contracting Officer's technical representative with respect to architectural, engineering, and design matters related to the work performed under the contract. The Architect may provide direction on contract performance. Such direction shall be within the scope of the contract and may not be of a nature which: (1) institutes additional work outside the scope of the contract; (2) constitutes a change as defined in the Changes clause herein; (3) causes an increase or decrease in the cost of the contract; (4) alters the Construction Progress Schedule; or (5) changes any of the other express terms or conditions of the contract.
- (c) The Architect's duties and responsibilities may include but shall not be limited to:
- (1) Making periodic visits to the work site, and on the basis of his/her on-site inspections, issuing written reports to the PHA which shall include all observed deficiencies. The Architect shall file a copy of the report with the Contractor's designated representative

at the site;

- (2) Making modifications in drawings and technical specifications and assisting the Contracting Officer in the preparation of change orders and other contract modifications for issuance by the Contracting Officer;
- (3) Reviewing and making recommendations with respect to - (i) the Contractor's construction progress schedules; (ii) the Contractor's shop and detailed drawings; (iii) the machinery, mechanical and other equipment and materials or other articles proposed for use by the Contractor; and, (iv) the Contractor's price breakdown and progress payment estimates; and,
- (4) Assisting in inspections, signing Certificates of Completion, and making recommendations with respect to acceptance of work completed under the contract.

4. Other Contracts

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

Construction Requirements

5. Pre-construction Conference and Notice to Proceed

- (a) Within ten calendar days of contract execution, and prior to the commencement of work, the Contractor shall attend a preconstruction conference with representatives of the PHA, its Architect, and other interested parties convened by the PHA. The conference will serve to acquaint the participants with the general plan of the construction operation and all other requirements of the contract. The PHA will provide the Contractor with the date, time, and place of the conference.
- (b) The Contractor shall begin work upon receipt of a written Notice to Proceed from the Contracting Officer or designee. The Contractor shall not begin work prior to receiving such notice

6. Construction Progress Schedule

- (a) The Contractor shall, within five days after the work commences on the contract or another period of time determined by the Contracting Officer, prepare and submit to the Contracting Officer for approval three copies of a practicable schedule showing the order in which the Contractor proposes to perform the work, and the dates on which the Contractor contemplates starting and completing the several salient features of the work (including acquiring labor, materials, and equipment). The schedule shall be in the form of a progress chart of suitable scale to indicate appropriately the percentage of work scheduled for completion by any given date during the period. If the Contractor fails to submit a schedule within the time prescribed, the Contracting Officer may withhold approval of progress payments or take other remedies under the contract until the Contractor submits

the required schedule.

- (b) The Contractor shall enter the actual progress on the chart as required by the Contracting Officer, and immediately deliver three copies of the annotated schedule to the Contracting Officer. If the Contracting Officer determines, upon the basis of inspection conducted pursuant to the clause entitled Inspection and Acceptance of Construction, herein that the Contractor is not meeting the approved schedule, the Contractor shall take steps necessary to improve its progress, including those that may be required by the Contracting Officer, without additional cost to the PHA. In this circumstance, the Contracting Officer may require the Contractor to increase the number of shifts, overtime operations, days of work, and/or the amount of construction plant, and to submit for approval any supplementary schedule or schedules in chart form as the Contracting Officer deems necessary to demonstrate how the approved rate of progress will be regained.
- (c) Failure of the Contractor to comply with the requirements of the Contracting Officer under this clause shall be grounds for a determination by the Contracting Officer that the Contractor is not prosecuting the work with sufficient diligence to ensure completion within the time specified in the Contract. Upon making this determination, the Contracting Officer may terminate the Contractor's right to proceed with the work, or any separable part of it, in accordance with the Default clause of this contract.

7. Site Investigation and Conditions Affecting the Work

- (a) The Contractor acknowledges that it has taken steps reasonably necessary to ascertain the nature and location of the work, and that it has investigated and satisfied itself as to the general and local conditions which can affect the work or its cost, including but not limited to, (1) conditions bearing upon transportation, disposal, handling, and storage of materials; (2) the availability of labor, water, electric power, and roads; (3) uncertainties of weather, river stages, tides, or similar physical conditions at the site; (4) the conformation and conditions of the ground; and (5) the character of equipment and facilities needed preliminary to and during work performance. The Contractor also acknowledges that it has satisfied itself as to the character, quality, and quantity of surface and subsurface materials or obstacles to be encountered insofar as this information is

reasonably ascertainable from an inspection of the site, including all exploratory work done by the PHA, as well as from the drawings and specifications made a part of this contract. Any failure of the Contractor to take the actions described and acknowledged in this paragraph will not relieve the Contractor from responsibility for estimating properly the difficulty and cost of successfully performing the work, or for proceeding to successfully perform the work without additional expense to the PHA.

- (b) The PHA assumes no responsibility for any conclusions or interpretations made by the Contractor based on the information made available by the PHA. Nor does the PHA assume responsibility for any understanding reached or representation made concerning conditions which can affect the work by any of its officers or agents before the execution of this contract, unless that understanding or representation is expressly stated in this contract.

8. Differing Site Conditions

- (a) The Contractor shall promptly, and before the conditions are disturbed, give a written notice to the Contracting Officer of (1) subsurface or latent physical conditions at the site which differ materially from those indicated in this contract, or (2) unknown physical conditions at the site(s), of an unusual nature, which differ materially from those ordinarily encountered and generally recognized as inhering in work of the character provided for in the contract.
- (b) The Contracting Officer shall investigate the site conditions promptly after receiving the notice. Work shall not proceed at the affected site, except at the Contractor's risk, until the Contracting Officer has provided written instructions to the Contractor. If the conditions do materially so differ and cause an increase or decrease in the Contractor's cost of, or the time required for, performing any part of the work under this contract, whether or not changed as a result of the conditions, the Contractor shall file a claim in writing to the PHA within ten days after receipt of such instructions and, in any event, before proceeding with the work. An equitable adjustment in the contract price, the delivery schedule, or both shall be made under this clause and the contract modified in writing accordingly.
- (c) No request by the Contractor for an equitable adjustment to the contract under this clause shall be allowed, unless the Contractor has given the written notice required; provided, that the time prescribed in (a) above for giving written notice may be extended by the Contracting Officer.
- (d) No request by the Contractor for an equitable adjustment to the contract for differing site conditions shall be

allowed if made after final payment under this contract.

9. Specifications and Drawings for Construction

- (a) The Contractor shall keep on the work site a copy of the drawings and specifications and shall at all times give the Contracting Officer access thereto. Anything mentioned in the specifications and not shown on the drawings, or shown on the drawings and not mentioned in the specifications, shall be of like effect as if shown or mentioned in both. In case of difference between drawings and specifications, the specifications shall govern. In case of discrepancy in the figures, in the drawings, or in the specifications, the matter shall be

promptly submitted to the Contracting Officer, who shall promptly make a determination in writing. Any adjustment by the Contractor without such a determination shall be at its own risk and expense. The Contracting Officer shall furnish from time to time such detailed drawings and other information as considered necessary, unless otherwise provided.

- (b) Wherever in the specifications or upon the drawings the words "directed", "required", "ordered", "designated", "prescribed", or words of like import are used, it shall be understood that the "direction", "requirement", "order", "designation", or "prescription", of the Contracting Officer is intended and similarly the words "approved", "acceptable", "satisfactory", or words of like import shall mean "approved by", or "acceptable to", or "satisfactory to" the Contracting Officer, unless otherwise expressly stated.
- (c) Where "as shown" "as indicated", "as detailed", or of similar import are used, it shall be understood that the reference is made to the drawings accompanying this contract unless stated otherwise. The word "provided" as used herein shall be understood to mean "provide complete in place" that is "furnished and installed".
- (d) "Shop drawings" means drawings, submitted to the PHA by the Contractor, subcontractor, or any lower tier subcontractor, showing in detail (1) the proposed fabrication and assembly of structural elements and (2) the installation (i.e., form, fit, and attachment details) of materials of equipment. It includes drawings, diagrams, layouts, schematics, descriptive literature, illustrations, schedules, performance and test data, and similar materials furnished by the Contractor to explain in detail specific portions of the work required by the contract. The PHA may duplicate, use, and disclose in any manner and for any purpose shop drawings delivered under this contract.
- (e) If this contract requires shop drawings, the Contractor shall coordinate all such drawings, and review them for accuracy, completeness, and compliance with other contract requirements and shall indicate its approval thereon as evidence of such coordination and review. Shop drawings submitted to the Contracting Officer without evidence of the Contractor's approval may be returned for resubmission. The Contracting Officer will indicate an approval or disapproval of the shop drawings and if not approved as submitted shall indicate the PHA's reasons therefore. Any work done before such approval shall be at the Contractor's risk. Approval by the Contracting Officer shall not relieve the Contractor from responsibility for any errors or omissions in such drawings, nor from responsibility for complying with the requirements of this contract, except with respect to variations described and approved in accordance with (f)

below.

- (f) If shop drawings show variations from the contract requirements, the Contractor shall describe such variations in writing, separate from the drawings, at the time of submission. If the Architect approves any such variation and the Contracting Officer concurs, the Contracting Officer shall issue an appropriate modification to the contract, except that, if the variation is minor or does not involve a change in price or in time of performance, a modification need not be issued.
- (g) It shall be the responsibility of the Contractor to make timely requests of the PHA for such large scale and full size drawings, color schemes, and other additional information, not already in his possession, which shall be

required in the planning and production of the work. Such requests may be submitted as the need arises, but each such request shall be filed in ample time to permit appropriate action to be taken by all parties involved so as to avoid delay.

- (h) The Contractor shall submit to the Contracting Officer for approval four copies (unless otherwise indicated) of all shop drawings as called for under the various headings of these specifications. Three sets (unless otherwise indicated) of all shop drawings, will be retained by the PHA and one set will be returned to the Contractor. As required by the Contracting Officer, the Contractor, upon completing the work under this contract, shall furnish a complete set of all shop drawings as finally approved. These drawings shall show all changes and revisions

made up to the time the work is completed and accepted.

- (i) This clause shall be included in all subcontracts at any tier. It shall be the responsibility of the Contractor to ensure that all shop drawings prepared by subcontractors are submitted to the Contracting Officer.

10. As-Built Drawings

- (a) "As-built drawings," as used in this clause, means drawings submitted by the Contractor or subcontractor at any tier to show the construction of a particular structure or work as actually completed under the contract. "As-built drawings" shall be synonymous with "Record

drawings."

- (b) As required by the Contracting Officer, the Contractor shall provide the Contracting Officer accurate information to be used in the preparation of permanent as-built drawings. For this purpose, the Contractor shall record on one set of contract drawings all changes from the installations originally indicated, and record final locations of underground lines by depth from finish grade and by accurate horizontal offset distances to permanent surface improvements such as buildings, curbs, or edges of walks.
- (c) This clause shall be included in all subcontracts at any tier. It shall be the responsibility of the Contractor to ensure that all as-built drawings prepared by subcontractors are submitted to the Contracting Officer.

11. Material and Workmanship

- (a) All equipment, material, and articles furnished under this contract shall be new and of the most suitable grade for the purpose intended, unless otherwise specifically provided in this contract. References in the contract to equipment, material, articles, or patented processes by trade name, make, or catalog number, shall be regarded as establishing a standard of quality and shall not be construed as limiting competition. The Contractor may, at its option, use any equipment, material, article, or process that, in the judgment of, and as approved by the Contracting Officer, is equal to that named in the specifications, unless otherwise specifically provided in this contract.

- (b) Approval of equipment and materials.

(1) The Contractor shall obtain the Contracting Officer's approval of the machinery and mechanical and other equipment to be incorporated into the work. When requesting approval, the Contractor shall furnish to the

Contracting Officer the name of the manufacturer, the model number, and other information concerning the performance, capacity, nature, and rating of the machinery and mechanical and other equipment. When required by this contract or by the Contracting Officer, the Contractor shall also obtain the Contracting Officer's approval of the material or articles which the Contractor contemplates incorporating into the work. When requesting approval, the Contractor shall provide full information concerning the material or articles. Machinery, equipment, material, and articles that do not have the required approval shall be installed or used at the risk of subsequent rejection.

- (2) When required by the specifications or the Contracting Officer, the Contractor shall submit appropriately marked samples (and certificates related to them) for approval at the Contractor's

expense, with all shipping charges prepaid. The Contractor shall label, or otherwise properly mark on the container, the material or product represented, its place of origin, the name of the producer, the Contractor's name, and the identification of the construction project for which the material or product is intended to be used.

- (3) Certificates shall be submitted in triplicate, describing each sample submitted for approval and certifying that the material, equipment or accessory complies with contract requirements. The certificates shall include the name and brand of the product, name of manufacturer, and the location where produced.
- (4) Approval of a sample shall not constitute a waiver of the PHA right to demand full compliance with contract requirements. Materials, equipment and accessories may be rejected for cause even though samples have been approved.
- (5) Wherever materials are required to comply with recognized standards or specifications, such specifications shall be accepted as establishing the technical qualities and testing methods, but shall not govern the number of tests required to be made nor modify other contract requirements. The Contracting Officer may require laboratory test reports on items submitted for approval or may approve materials on the basis of data submitted in certificates with samples. Check tests will be made on materials delivered for use only as frequently as the Contracting Officer determines necessary to insure compliance of materials with the specifications. The Contractor will assume all costs of retesting materials which fail to meet contract requirements and/or testing materials offered in substitution for those found deficient.
- (6) After approval, samples will be kept in the Project office until completion of work. They may be built into the work after a substantial quantity of the materials they represent has been built in and accepted.
- (c) Requirements concerning lead-based paint. The Contractor shall comply with the requirements concerning lead-based paint contained in the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846) as implemented by 24 CFR Part 35.

12. Permits and Codes

Contracting Officer the name of the manufacturer, the model number, and other information concerning the performance, capacity, nature, and rating of the

(a) The Contractor shall give all notices and comply with all applicable laws, ordinances, codes, rules and regulations. Notwithstanding the requirement of the Contractor to comply with the drawings and specifications in the contract, all work installed shall comply with all applicable codes and regulations as amended by any

waivers. Before installing the work, the Contractor shall examine the drawings and the specifications for compliance with applicable codes and regulations bearing on the work and shall immediately report any discrepancy it may discover to the Contracting Officer. Where the requirements of the drawings and specifications fail to comply with the applicable code or regulation, the Contracting Officer shall modify the contract by change order pursuant to the clause entitled Changes herein to conform to the code or regulation.

- (b) The Contractor shall secure and pay for all permits, fees, and licenses necessary for the proper execution and completion of the work. Where the PHA can arrange for the issuance of all or part of these permits, fees and licenses, without cost to the Contractor, the contract amount shall be reduced accordingly.

13. Health, Safety, and Accident Prevention

(a) In performing this contract, the Contractor shall:

- (1) Ensure that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his/her health and/or safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation;
- (2) Protect the lives, health, and safety of other persons;
- (3) Prevent damage to property, materials, supplies, and equipment; and,
- (4) Avoid work interruptions.

(b) For these purposes, the Contractor shall:

- (1) Comply with regulations and standards issued by the Secretary of Labor at 29 CFR Part 1926. Failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act (Public Law 91-54, 83 Stat. 96), 40 U.S.C. 3701 et

seq.; and

- (2) Include the terms of this clause in every subcontract so that such terms will be binding on each subcontractor.

- (c) The Contractor shall maintain an accurate record of exposure data on all accidents incident to work performed under this contract resulting in death, traumatic injury, occupational disease, or damage to property, materials, supplies, or equipment, and shall report this data in the manner prescribed by 29 CFR Part 1904.
- (d) The Contracting Officer shall notify the Contractor of any noncompliance with these requirements and of the corrective action required. This notice, when delivered to the Contractor or the Contractor's representative at the site of the work, shall be deemed sufficient notice of the noncompliance and corrective action required. After receiving the notice, the Contractor shall immediately take corrective action. If the Contractor fails or refuses to take corrective action promptly, the Contracting Officer may issue an order stopping all or part of the work until satisfactory corrective action has been taken. The Contractor shall not base any claim or request for equitable adjustment for additional time or money on any stop order issued under these circumstances.
- (e) The Contractor shall be responsible for its subcontractors' compliance with the provisions of this clause. The Contractor shall take such action with respect to any subcontract as the PHA, the Secretary of Housing and Urban Development, or the Secretary of Labor shall direct as a means of enforcing such provisions.

14. Temporary Heating

The Contractor shall provide and pay for temporary heating, covering, and enclosures necessary to properly protect all work and materials against damage by dampness and cold, to dry out the work, and to facilitate the completion of the work. Any permanent heating equipment used shall be turned over to the PHA in the condition and at the time required by the specifications.

15. Availability and Use of Utility Services

- (a) The PHA shall make all reasonably required amounts of utilities available to the Contractor from existing outlets and supplies, as specified in the contract. Unless otherwise provided in the contract, the amount of each utility service consumed shall be charged to or paid for by the Contractor at prevailing rates charged to the PHA or, where the utility is produced by the PHA, at reasonable rates determined by the Contracting Officer. The Contractor shall carefully conserve any utilities furnished without charge.
- (b) The Contractor, at its expense and in a manner satisfactory to the Contracting Officer, shall install and maintain all necessary temporary connections and distribution lines, and all meters required to measure the amount of each utility used for the purpose of determining charges. Before final acceptance of the work by the PHA, the Contractor shall remove all the temporary connections, distribution lines, meters, and associated paraphernalia.

16. Protection of Existing Vegetation, Structures, Equipment, Utilities, and Improvements

- (a) The Contractor shall preserve and protect all structures, equipment, and vegetation (such as trees, shrubs, and grass) on or adjacent to the work site, which are not to be removed under this contract, and which do not unreasonably interfere with the work required under this contract.
- (b) The Contractor shall only remove trees when specifically authorized to do so, and shall avoid damaging vegetation that will remain in place. If any limbs or branches of trees are broken during performance of this contract, or by the careless operation of equipment, or by workmen, the Contractor shall trim those limbs or branches with a clean cut and paint the cut with a tree-pruning compound as directed by the Contracting Officer.
- (c) The Contractor shall protect from damage all existing improvements and utilities (1) at or near the work site and (2) on adjacent property of a third party, the locations of which are made known to or should be known by the Contractor. Prior to disturbing the ground at the construction site, the Contractor shall ensure that all underground utility lines are clearly marked.
- (d) The Contractor shall shore up, brace, underpin, secure, and protect as necessary all foundations and other parts of existing structures adjacent to, adjoining, and in the vicinity of the site, which may be affected by the excavations or other operations connected with the construction of the project.
- (e) Any equipment temporarily removed as a result of work under this contract shall be protected, cleaned, and replaced in the same condition as at the time of award of this contract.

- (f) New work which connects to existing work shall correspond in all respects with that to which it connects and/or be similar to existing work unless otherwise required by the specifications.
- (g) No structural members shall be altered or in any way weakened without the written authorization of the

Contracting Officer, unless such work is clearly specified in the plans or specifications.

- (h) If the removal of the existing work exposes discolored or unfinished surfaces, or work out of alignment, such surfaces shall be refinished, or the material replaced as necessary to make the continuous work uniform and harmonious. This, however, shall not be construed to require the refinishing or reconstruction of dissimilar finishes previously exposed, or finished surfaces in good condition, but in different planes or on different levels when brought together by the removal of intervening work, unless such refinishing or reconstruction is

specified in the plans or specifications.

- (i) The Contractor shall give all required notices to any adjoining or adjacent property owner or other party before the commencement of any work.
- (j) The Contractor shall indemnify and save harmless the PHA from any damages on account of settlement or the loss of lateral support of adjoining property, any damages from changes in topography affecting drainage, and from all loss or expense and all damages for which the PHA may become liable in consequence of such injury or damage to adjoining and adjacent structures and their premises.
- (k) The Contractor shall repair any damage to vegetation, structures, equipment, utilities, or improvements, including those that are the property of a third party, resulting from failure to comply with the requirements of this contract or failure to exercise reasonable care in performing the work. If the Contractor fails or refuses to repair the damage promptly, the Contracting Officer may have the necessary work performed and charge the cost to the Contractor.

17. Temporary Buildings and Transportation of Materials

- (a) Temporary buildings (e.g., storage sheds, shops, offices, sanitary facilities) and utilities may be erected by the Contractor only with the approval of the Contracting Officer and shall be built with labor and materials furnished by the Contractor without expense to the PHA. The temporary buildings and utilities shall remain the property of the Contractor and shall be removed by the Contractor at its expense upon completion of the work. With the written consent of the Contracting Officer, the buildings and utilities may be abandoned and need not

be removed.

- (b) The Contractor shall, as directed by the Contracting Officer, use only established roadways, or use temporary roadways constructed by the Contractor when and as authorized by the Contracting Officer. When materials are transported in prosecuting the work, vehicles shall not be loaded beyond the loading capacity recommended by the manufacturer of the vehicle or prescribed by any federal, state, or local law or regulation. When it is necessary to cross curbs or sidewalks, the Contractor shall protect them from damage. The Contractor shall repair or pay for the repair of any damaged curbs, sidewalks, or roads.

The contractor shall comply with the Clean Air Act, as amended, 42 USC 7401 et seq., the Federal Water Pollution Control Water Act, as amended, 33 U.S.C. 1251 et seq., and standards issued pursuant thereto in the facilities in which this contract is to be performed.

19. Energy Efficiency

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

20. Inspection and Acceptance of Construction

- (a) Definitions. As used in this clause-

- (1) "Acceptance" means the act of an authorized representative of the PHA by which the PHA approves and assumes ownership of the work performed under this contract. Acceptance may be partial or complete.
- (2) "Inspection" means examining and testing the work performed under the contract (including, when appropriate, raw materials, equipment, components, and intermediate assemblies) to determine whether it conforms to contract requirements.
- (3) "Testing" means that element of inspection that determines the properties or elements, including functional operation of materials, equipment, or their components, by the application of established scientific principles and procedures.

- (b) The Contractor shall maintain an adequate inspection system and perform such inspections as will ensure that the work performed under the contract conforms to contract requirements. All work is subject to PHA inspection and test at all places and at all reasonable times before acceptance to ensure strict compliance with the terms of the contract.
- (c) PHA inspections and tests are for the sole benefit of the PHA and do not: (1) relieve the Contractor of responsibility for providing adequate quality control measures; (2) relieve the Contractor of responsibility for loss or damage of the material before acceptance; (3) constitute or imply acceptance; or, (4) affect the continuing rights of the PHA after acceptance of the completed work under paragraph (j) below.
- (d) The presence or absence of the PHA inspector does not relieve the Contractor from any contract requirement, nor is the inspector authorized to change any term or condition of the specifications without the Contracting Officer's written authorization. All instructions and

approvals with respect to the work shall be given to the Contractor by the Contracting Officer.

18. Clean Air and Water

(e) The Contractor shall promptly furnish, without additional charge, all facilities, labor, and material reasonably needed for performing such safe and convenient inspections and tests as may be required by the Contracting Officer. The PHA may charge to the Contractor any additional cost of inspection or test when work is not ready at the time specified by the Contractor for inspection or test, or when prior rejection makes reinspection or retest necessary. The PHA shall perform all inspections and tests in a manner that will not unnecessarily delay the work. Special, full size, and performance tests shall be performed as described in the contract.

- (f) The PHA may conduct routine inspections of the construction site on a daily basis.
- (g) The Contractor shall, without charge, replace or correct work found by the PHA not to conform to contract requirements, unless the PHA decides that it is in its interest to accept the work with an appropriate adjustment in contract price. The Contractor shall promptly segregate and remove rejected material from the premises.
- (h) If the Contractor does not promptly replace or correct rejected work, the PHA may (1) by contract or otherwise, replace or correct the work and charge the cost to the Contractor, or (2) terminate for default the Contractor's right to proceed.
- (i) If any work requiring inspection is covered up without approval of the PHA, it must, if requested by the Contracting Officer, be uncovered at the expense of the Contractor. If at any time before final acceptance of the entire work, the PHA considers it necessary or advisable, to examine work already completed by removing or tearing it out, the Contractor, shall on request, promptly furnish all necessary facilities, labor, and material. If such work is found to be defective or nonconforming in any material respect due to the fault of the Contractor or its subcontractors, the Contractor shall defray all the expenses of the examination and of satisfactory reconstruction. If, however, such work is found to meet the requirements of the contract, the Contracting Officer shall make an equitable adjustment to cover the cost of the examination and reconstruction, including, if completion of the work was thereby delayed, an

extension of time.

- (j) The Contractor shall notify the Contracting Officer, in writing, as to the date when in its opinion all or a designated portion of the work will be substantially completed and ready for inspection. If the Architect determines that the state of preparedness is as represented, the PHA will promptly arrange for the inspection. Unless otherwise specified in the contract, the PHA shall accept, as soon as practicable after completion and inspection, all work required by the contract or that portion of the work the Contracting Officer determines and designates can be accepted separately. Acceptance shall be final and conclusive except for latent defects, fraud, gross mistakes amounting to fraud, or the PHA's right under any warranty or guarantee.

21. Use and Possession Prior to Completion

- (a) The PHA shall have the right to take possession of or use any completed or partially completed part of the work. Before taking possession of or using any work, the Contracting Officer shall furnish the Contractor a list of items of work remaining to be performed or corrected on those portions of the work that the PHA intends to take possession of or use. However, failure of the Contracting Officer to list any item of work shall not relieve the Contractor of responsibility for complying with the terms of the contract. The PHA's possession or use shall not be

deemed an acceptance of any work under the contract.

- (b) While the PHA has such possession or use, the Contractor shall be relieved of the responsibility for (1) the loss of or damage to the work resulting from the PHA's possession or use, notwithstanding the terms of the clause entitled *Permits and Codes* herein; (2) all

occupied without proper remuneration therefore. If prior possession or use by the PHA delays the progress of the work or causes additional expense to the Contractor, an equitable adjustment shall be made in the contract price or the time of completion, and the contract shall be modified in writing accordingly.

22. Warranty of Title

The Contractor warrants good title to all materials, supplies, and equipment incorporated in the work and agrees to deliver the premises together with all improvements thereon free from any claims, liens or charges, and agrees further that neither it nor any other person, firm or corporation shall have any right to a lien upon the premises or anything appurtenant thereto.

23. Warranty of Construction

- (a) In addition to any other warranties in this contract, the Contractor warrants, except as provided in paragraph (j) of this clause, that work performed under this contract conforms to the contract requirements and is free of any defect in equipment, material, or workmanship performed by the Contractor or any subcontractor or supplier at any tier. This warranty shall continue for a period of _____ (one year unless otherwise indicated) from the date of final acceptance of the work. If the PHA takes possession of any part of the work before final acceptance, this warranty shall continue for a period of (one year unless otherwise indicated) from the date that the PHA takes possession.
- (b) The Contractor shall remedy, at the Contractor's expense, any failure to conform, or any defect. In addition, the Contractor shall remedy, at the Contractor's expense, any damage to PHA-owned or controlled real or personal property when the damage is the result of—
- (1) The Contractor's failure to conform to contract requirements; or
 - (2) Any defects of equipment, material, workmanship or design furnished by the Contractor.
- (c) The Contractor shall restore any work damaged in fulfilling the terms and conditions of this clause. The Contractor's warranty with respect to work repaired or replaced will run for (one year unless otherwise indicated) from the date of repair or replacement.
- (d) The Contracting Officer shall notify the Contractor, in writing, within a reasonable time after the discovery of any failure, defect or damage.
- (e) If the Contractor fails to remedy any failure, defect, or damage within a reasonable time after receipt of notice, the PHA shall have the right to replace, repair or otherwise remedy the failure, defect, or damage at the Contractor's expense.
- (f) With respect to all warranties, express or implied, from subcontractors, manufacturers, or suppliers for work performed and materials furnished under this contract, the Contractor shall:
- (1) Obtain all warranties that would be given in normal commercial practice;
 - (2) Require all warranties to be executed in writing, for the maintenance costs on the areas occupied; and, (3) furnishing heat, light, power, and water used in the areas

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- benefit of the PHA; and,
- (3) Enforce all warranties for the benefit of the PHA.
- (g) In the event the Contractor's warranty under paragraph (a) of this clause has expired, the PHA may bring suit at its own expense to enforce a subcontractor's, manufacturer's or supplier's warranty.

- (h) Unless a defect is caused by the negligence of the Contractor or subcontractor or supplier at any tier, the Contractor shall not be liable for the repair of any defect of material or design furnished by the PHA nor for the repair of any damage that results from any defect in PHA furnished material or design.
- (i) Notwithstanding any provisions herein to the contrary, the establishment of the time periods in paragraphs (a) and (c) above relate only to the specific obligation of the Contractor to correct the work, and have no relationship to the time within which its obligation to comply with the contract may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to its obligation other than specifically to correct the work.
- (j) This warranty shall not limit the PHA's rights under the Inspection and Acceptance of Construction clause of this contract with respect to latent defects, gross mistakes or fraud.

24. Prohibition Against Liens

The Contractor is prohibited from placing a lien on the PHA's property. This prohibition shall apply to all subcontractors at any tier and all materials suppliers.

Administrative Requirements

25. Contract Period

this contract within _____ calendar days of the effective date of the contract, or within the time schedule established in the notice to proceed issued by the

Contracting Officer.

26. Order of Provisions

In the event of a conflict between these General Conditions and the Specifications, the General

Conditions shall prevail. In the event of a conflict between the contract and any applicable state or local law or regulation, the state or local law or regulation shall prevail; provided that such state or local law or regulation does not conflict with, or is less restrictive than applicable federal law, regulation, or Executive Order. In the event of

such a conflict, applicable federal law, regulation, and Executive Order shall prevail.

27. Payments

- (a) The PHA shall pay the Contractor the price as provided in this contract.
- (b) The PHA shall make progress payments approximately every 30 days as the work proceeds, on estimates of work accomplished which meets the standards of quality established under the contract, as approved by the Contracting Officer. The PHA may, subject to written determination and approval of the Contracting Officer, make more frequent payments to contractors which are qualified small businesses.
- (c) Before the first progress payment under this contract, the

basis for determining progress payments. The breakdown shall be approved by the Contracting Officer and must be acceptable to HUD. If the contract covers more than one project, the Contractor shall furnish a separate breakdown for each. The values and quantities employed in making up this breakdown are for determining the amount of progress payments and shall not be construed as a basis for additions to or deductions from the contract price. The Contractor shall prorate its overhead and profit over the construction period of the contract.

- (d) The Contractor shall submit, on forms provided by the PHA, periodic estimates showing the value of the work performed during each period based upon the approved submitted not later than _____ days in advance of

the date set for payment and are subject to correction and revision as required. The estimates must be approved by the Contracting Officer with the concurrence of the Architect prior to payment. If the contract covers more than one project, the Contractor shall furnish a separate progress payment estimate for each.

- (e) Along with each request for progress payments and the required estimates, the Contractor shall furnish the following certification, or payment shall not be made: I hereby certify, to the best of my knowledge and belief, that:

- (1) The amounts requested are only for performance in accordance with the specifications, terms, and conditions of the contract;
- (2) Payments to subcontractors and suppliers have been made from previous payments received under the contract, and timely payments will be made from the proceeds of the payment covered by this certification, in accordance with subcontract agreements; and,
- (3) This request for progress payments does not include any amounts which the prime contractor intends to withhold or retain from a subcontractor or supplier in accordance with the terms and conditions of the subcontract.

Name:

Title:

Date:

- (f) Except as otherwise provided in State law, the PHA shall retain ten (10) percent of the amount of progress Contractor shall furnish, in such detail as requested by the Contracting Officer, a breakdown of the total contract price showing the amount included therein for each principal category of the work, which shall substantiate the payment amount requested in order to provide a

payments until completion and acceptance of all work under the contract; except, that if upon completion of 50 percent of the work, the Contracting Officer, after consulting with the Architect, determines that the Contractor's performance and progress are satisfactory, the PHA may make the remaining payments in full for the work subsequently completed. If the Contracting Officer subsequently determines that the Contractor's performance and progress are unsatisfactory, the PHA shall reinstate the ten (10) percent (or other percentage as provided in State law) retainage until such time as the Contracting Officer determines that performance and progress are satisfactory.

- (g) The Contracting Officer may authorize material delivered on the site and preparatory work done to be taken into consideration when computing progress payments.

Material delivered to the Contractor at locations other than the site may also be taken into consideration if the Contractor furnishes satisfactory evidence that (1) it has acquired title to such material; (2) the material is properly stored in a bonded warehouse, storage yard, or similar suitable place as may be approved by the Contracting Officer; (3) the material is insured to cover its full value; and (4) the material will be used to perform this contract. Before any progress payment which includes delivered material is made, the Contractor shall furnish such documentation as the Contracting Officer may require to assure the protection of the PHA's interest in such materials. The Contractor shall remain responsible for such stored material notwithstanding the transfer of title to the PHA.

- (h) All material and work covered by progress payments made shall, at the time of payment become the sole property of the PHA, but this shall not be construed as (1) relieving the Contractor from the sole responsibility for all material and work upon which payments have been made or the restoration of any damaged work; or, (2) waiving the right of the PHA to require the fulfillment of all of the terms of the contract. In the event the work of the Contractor has been damaged by other contractors or persons other than employees of the PHA in the course of their employment, the Contractor shall restore such damaged work without cost to the PHA and to seek redress for its damage only from those who directly caused it.
- (i) The PHA shall make the final payment due the Contractor under this contract after (1) completion and final acceptance of all work; and (2) presentation of release of all claims against the PHA arising by virtue of this contract, other than claims, in stated amounts, that the Contractor has specifically excepted from the operation of the release. Each such exception shall embrace no more than one claim, the basis and scope of which shall be clearly defined. The amounts for such excepted claims shall not be included in the request for final payment. A release may also be required of the assignee if the Contractor's claim to amounts payable under this contract has been assigned.
- (j) Prior to making any payment, the Contracting Officer may require the Contractor to furnish receipts or other evidence of payment from all persons performing work and supplying material to the Contractor, if the Contracting Officer determines such evidence is necessary to substantiate claimed costs.
- (k) The PHA shall not; (1) determine or adjust any claims for payment or disputes arising there under between the Contractor and its subcontractors or material suppliers; or, (2) withhold any moneys for the protection of the subcontractors or material suppliers. The failure or refusal of the PHA to withhold moneys from the Contractor shall in no wise impair the obligations of any surety or sureties under any bonds furnished under this contract.

28. Contract Modifications

- (a) Only the Contracting Officer has authority to modify any term or condition of this contract. Any contract modification shall be authorized in writing.
- (b) The Contracting Officer may modify the contract unilaterally (1) pursuant to a specific authorization stated in a contract clause (e.g., Changes); or (2) for administrative matters which do not change the rights or

responsibilities of the parties (e.g., change in the PHA address). All other contract modifications shall be in the form of supplemental agreements signed by the Contractor and the Contracting Officer.

- (c) When a proposed modification requires the approval of HUD prior to its issuance (e.g., a change order that exceeds the PHA's approved threshold), such modification shall not be effective until the required approval is received by the PHA.

29. Changes

- (a) The Contracting Officer may, at any time, without notice to the sureties, by written order designated or indicated to be a change order, make changes in the work within the general scope of the contract including changes:
 - (1) In the specifications (including drawings and designs);
 - (2) In the method or manner of performance of the work;
 - (3) PHA-furnished facilities, equipment, materials, services, or site; or,
 - (4) Directing the acceleration in the performance of the work.
- (b) Any other written order or oral order (which, as used in this paragraph (b), includes direction, instruction, interpretation, or determination) from the Contracting Officer that causes a change shall be treated as a change order under this clause; provided, that the Contractor gives the Contracting Officer written notice stating (1) the date, circumstances and source of the order and (2) that the Contractor regards the order as a change order.
- (c) Except as provided in this clause, no order, statement or conduct of the Contracting Officer shall be treated as a change under this clause or entitle the Contractor to an equitable adjustment.
- (d) If any change under this clause causes an increase or decrease in the Contractor's cost of, or the time required for the performance of any part of the work under this contract, whether or not changed by any such order, the Contracting Officer shall make an equitable adjustment and modify the contract in writing. However, except for a adjustment based on defective specifications, no proposal for any change under paragraph (b) above shall be allowed for any costs incurred more than 20 days (5 days for oral orders) before the Contractor gives written notice as required. In the case of defective specifications for which the PHA is responsible, the equitable adjustment shall include any increased cost reasonably incurred by the Contractor in attempting to comply with the defective specifications.
- (e) The Contractor must assert its right to an adjustment under this clause within 30 days after (1) receipt of a written change order under paragraph (a) of this clause, or (2) the furnishing of a written notice under paragraph (b) of this clause, by submitting a written statement describing the general nature and the amount of the proposal. If the facts justify it, the Contracting Officer may extend the period for submission. The proposal may be included in the notice required under paragraph (b) above. No proposal by the Contractor for an equitable adjustment shall be allowed if asserted after final payment under this contract.
- (f) The Contractor's written proposal for equitable adjustment shall be submitted in the form of a lump sum proposal supported with an itemized breakdown of all increases and decreases in the contract in at least the following details:

- (1) Direct Costs. Materials (list individual items, the quantity and unit cost of each, and the aggregate cost); Transportation and delivery costs associated with materials; Labor breakdowns by hours or unit costs (identified with specific work to be performed); Construction equipment exclusively necessary for the change; Costs of preparation and/ or revision to shop drawings resulting from the change; Worker's Compensation and Public Liability Insurance; Employment taxes under FICA and FUTA; and, Bond Costs when size of change warrants revision.
- (2) Indirect Costs. Indirect costs may include overhead, general and administrative expenses, and fringe benefits not normally treated as direct costs.
- (3) Profit. The amount of profit shall be negotiated and may vary according to the nature, extent, and complexity of the work required by the change. The allowability of the direct and indirect costs shall be determined in accordance with the Contract Cost Principles and Procedures for Commercial Firms in Part 31 of the Federal Acquisition Regulation (48 CFR 1-31), as implemented by HUD Handbook 2210.18, in effect on the date of this contract. The Contractor shall not be allowed a profit on the profit received by any subcontractor. Equitable adjustments for deleted work shall include a credit for profit and may include a credit for indirect costs. On proposals covering both increases and decreases in the amount of the contract, the application of indirect costs and profit shall be on the net-change in direct costs for the Contractor or subcontractor performing the work.
- (g) The Contractor shall include in the proposal its request for time extension (if any), and shall include sufficient information and dates to demonstrate whether and to what extent the change will delay the completion of the contract in its entirety.
- (h) The Contracting Officer shall act on proposals within 30 days after their receipt, or notify the Contractor of the date when such action will be taken.
- (i) Failure to reach an agreement on any proposal shall be a dispute under the clause entitled Disputes herein. Nothing in this clause, however, shall excuse the Contractor from proceeding with the contract as changed.
- (j) Except in an emergency endangering life or property, no change shall be made by the Contractor without a prior order from the Contracting Officer.

30. Suspension of Work

- (a) The Contracting Officer may order the Contractor in writing to suspend, delay, or interrupt all or any part of the work of this contract for the period of time that the

Contracting Officer determines appropriate for the convenience of the PHA.

- (b) If the performance of all or any part of the work is, for an unreasonable period of time, suspended, delayed, or interrupted (1) by an act of the Contracting Officer in the administration of this contract, or (2) by the Contracting Officer's failure to act within the time specified (or within a reasonable time if not specified) in this contract an adjustment shall be made for any increase in the cost of performance of the contract (excluding profit) necessarily caused by such unreasonable suspension, delay, or interruption and the contract modified in writing accordingly. However, no adjustment shall be made under this clause for any suspension, delay, or

been so suspended, delayed, or interrupted by any other cause, including the fault or negligence of the Contractor or for which any equitable adjustment is provided for or excluded under any other provision of this contract.

- (c) A claim under this clause shall not be allowed (1) for any costs incurred more than 20 days before the Contractor shall have notified the Contracting Officer in writing of the act or failure to act involved (but this requirement shall not apply as to a claim resulting from a suspension order); and, (2) unless the claim, in an amount stated, is asserted in writing as soon as practicable after the termination of the suspension, delay, or interruption, but not later than the date of final payment under the contract.

31. Disputes

- (a) "Claim," as used in this clause, means a written demand or written assertion by one of the contracting parties seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to the contract. A claim arising under the contract, unlike a claim relating to the contract, is a claim that can be resolved under a contract clause that provides for the relief sought by the claimant. A voucher, invoice, or other routine request for payment that is not in dispute when submitted is not a claim. The submission may be converted to a claim by complying with the requirements of this clause, if it is disputed either as to liability or amount or is not acted upon in a reasonable time.
- (b) Except for disputes arising under the clauses entitled Labor Standards - Davis Bacon and Related Acts, herein, all disputes arising under or relating to this contract, including any claims for damages for the alleged breach thereof which are not disposed of by agreement, shall be resolved under this clause.
- (c) All claims by the Contractor shall be made in writing and

submitted to the Contracting Officer for a written decision. A claim by the PHA against the Contractor shall be subject to a written decision by the Contracting Officer.

- (d) The Contracting Officer shall, within 60 (unless otherwise indicated) days after receipt of the request, decide the claim or notify the Contractor of the date by which the decision will be made.
- (e) The Contracting Officer's decision shall be final unless the Contractor (1) appeals in writing to a higher level in the PHA in accordance with the PHA's policy and procedures, (2) refers the appeal to an independent mediator or arbitrator, or (3) files suit in a court of competent jurisdiction. Such appeal must be made within (30 unless otherwise indicated) days after receipt of the

Contracting Officer's decision.

- (f) The Contractor shall proceed diligently with performance interruption to the extent that performance would have

of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under or relating to the contract, and comply with any decision of the Contracting Officer.

32. Default

(a) If the Contractor refuses or fails to prosecute the work, or any separable part thereof, with the diligence that will insure its completion within the time specified in this contract, or any extension thereof, or fails to complete said work within this time, the Contracting Officer may, by written notice to the Contractor, terminate the right to

proceed with the work (or separable part of the work) that has been delayed. In this event, the PHA may take over the work and complete it, by contract or otherwise, and may take possession of and use any materials, equipment, and plant on the work site necessary for completing the work. The Contractor and its sureties shall be liable for any damage to the PHA resulting from the Contractor's refusal or failure to complete the work within the specified time, whether or not the Contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the PHA in completing the work.

- (b) The Contractor's right to proceed shall not be terminated or the Contractor charged with damages under this clause if—
- (1) The delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include (i) acts of God, or of the public enemy, (ii) acts of the PHA or other governmental entity in either its sovereign or contractual capacity, (iii) acts of another contractor in the performance of a contract with the PHA, (iv) fires, (v) floods, (vi) epidemics, (vii) quarantine restrictions, (viii) strikes, (ix) freight embargoes, (x) unusually severe weather, or (xi) delays of subcontractors or suppliers at any tier arising from unforeseeable causes beyond the control and without the fault or negligence of both the Contractor and the subcontractors or suppliers; and
 - (2) The Contractor, within days (10 days unless otherwise indicated) from the beginning of such delay (unless extended by the Contracting Officer) notifies the Contracting Officer in writing of the causes of delay. The Contracting Officer shall ascertain the facts and the extent of the delay. If, in the judgment of the Contracting Officer, the findings of fact warrant such action, time for completing the work shall be extended by written modification to the contract. The findings of the Contracting Officer shall be reduced to a written decision which shall be subject to the provisions of the Disputes clause of this contract.
- (c) If, after termination of the Contractor's right to proceed, it is determined that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been for convenience of the PHA.

33. Liquidated Damages

- (a) If the Contractor fails to complete the work within the time specified in the contract, or any extension, as specified in the clause entitled Default of this contract, the Contractor shall pay to the PHA as liquidated damages, the sum of \$_____ [Contracting Officer insert amount] for each day of delay. If different completion dates are specified in the contract for separate parts or stages of the work, the amount of liquidated damages shall be assessed on those parts or stages which are delayed. To the extent that the Contractor's delay or nonperformance is excused under another clause in this contract, liquidated damages shall not be due the PHA. The Contractor remains liable for damages caused other than by delay.
- (b) If the PHA terminates the Contractor's right to proceed, the resulting damage will consist of liquidated damages

completion of the work together with any increased costs occasioned the PHA in completing the work.

- (c) If the PHA does not terminate the Contractor's right to proceed, the resulting damage will consist of liquidated damages until the work is completed or accepted.

34. Termination for Convenience

- (a) The Contracting Officer may terminate this contract in whole, or in part, whenever the Contracting Officer determines that such termination is in the best interest of the PHA. Any such termination shall be effected by delivery to the Contractor of a Notice of Termination specifying the extent to which the performance of the work under the contract is terminated, and the date upon which such termination becomes effective.
- (b) If the performance of the work is terminated, either in whole or in part, the PHA shall be liable to the Contractor for reasonable and proper costs resulting from such termination upon the receipt by the PHA of a properly presented claim setting out in detail: (1) the total cost of the work performed to date of termination less the total amount of contract payments made to the Contractor; (2) the cost (including reasonable profit) of settling and paying claims under subcontracts and material orders for work performed and materials and supplies delivered to the site, payment for which has not been made by the PHA to the Contractor or by the Contractor to the subcontractor or supplier; (3) the cost of preserving and protecting the work already performed until the PHA or assignee takes possession thereof or assumes responsibility therefore; (4) the actual or estimated cost of legal and accounting services reasonably necessary to prepare and present the termination claim to the PHA; and (5) an amount constituting a reasonable profit on the value of the work performed by the Contractor.
- (c) The Contracting Officer will act on the Contractor's claim within days (60 days unless otherwise indicated) of receipt of the Contractor's claim.
- (d) Any disputes with regard to this clause are expressly

made subject to the provisions of the Disputes clause of this contract.

35. Assignment of Contract

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

36. Insurance

- (a) Before commencing work, the Contractor and each subcontractor shall furnish the PHA with certificates of insurance showing the following insurance is in force and will insure all operations under the Contract:
- (1) Workers' Compensation, in accordance with state or Territorial Workers' Compensation laws. until such reasonable time as may be required for final

(2) Commercial General Liability with a combined single limit for bodily injury and property damage of not less than \$ [Contracting Officer insert amount]

per occurrence to protect the Contractor and each subcontractor against claims for bodily injury or death and damage to the property of others. This shall cover the use of all equipment, hoists, and vehicles

on the site(s) not covered by Automobile Liability under (3) below. If the Contractor has a "claims made" policy, then the following additional requirements apply: the policy must provide a "retroactive date"

which must be on or before the execution date of the Contract; and the extended reporting period may not be less than five years

following the completion date of the Contract.

- (3) Automobile Liability on owned and non-owned motor vehicles used on the site(s) or in connection therewith for a combined single limit for bodily injury and

property damage of not less than \$ _____
[Contracting Officer insert amount] per occurrence.

- (b) Before commencing work, the Contractor shall furnish the PHA with a certificate of insurance evidencing that Builder's Risk (fire and extended coverage) Insurance on all work in place and/or materials stored at the building site(s), including foundations and building equipment, is in force. The Builder's Risk Insurance shall be for the benefit of the Contractor and the PHA as their interests may appear and each shall be named in the policy or policies as an insured. The Contractor in installing equipment supplied by the PHA shall carry insurance on such equipment from the time the Contractor takes possession thereof until the Contract work is accepted by the PHA. The Builder's Risk Insurance need not be carried on excavations, piers, footings, or foundations until such time as work on the superstructure is started. It need not be carried on landscape work. Policies shall furnish coverage at all times for the full cash value of all completed construction, as well as materials in place and/or stored at the site(s), whether or not partial payment has been made by the PHA. The Contractor may terminate this insurance on buildings as of the date taken over for occupancy by the PHA. The Contractor is not required to carry Builder's Risk Insurance for modernization work which does not involve structural alterations or additions and where the PHA's existing fire and extended coverage policy can be endorsed to include such work.

- (c) All insurance shall be carried with companies which are financially responsible and admitted to do business in the State in which the project is located. If any such insurance is due to expire during the construction period, the Contractor (including subcontractors, as applicable) shall not permit the coverage to lapse and shall furnish evidence of coverage to the Contracting Officer. All certificates of insurance, as evidence of coverage, shall provide that no coverage may be canceled or non-renewed by the insurance company until at least 30 days prior written notice has been given to the Contracting Officer.

37. Subcontracts

- (a) Definitions. As used in this contract -

(1) "Subcontract" means any contract, purchase order, or other purchase agreement, including modifications

(2) "Subcontractor" means any supplier, vendor, or firm that furnishes supplies, materials, equipment, or services to or for the Contractor or another subcontractor.

- (b) The Contractor shall not enter into any subcontract with any subcontractor who has been temporarily denied participation in a HUD program or who has been suspended or debarred from participating in contracting

programs by any agency of the United States Government or of the state in which the work under this contract is to be performed.

- (c) The Contractor shall be as fully responsible for the acts or omissions of its subcontractors, and of persons either directly or indirectly employed by them as for the acts or omissions of persons directly employed by the

Contractor.

- (d) The Contractor shall insert appropriate clauses in all subcontracts to bind subcontractors to the terms and conditions of this contract insofar as they are applicable to the work of subcontractors.
- (e) Nothing contained in this contract shall create any contractual relationship between any subcontractor and the PHA or between the subcontractor and HUD.

38. Subcontracting with Small and Minority Firms, Women's Business Enterprise, and Labor Surplus Area Firms

The Contractor shall take the following steps to ensure that, whenever possible, subcontracts are awarded to small business firms, minority firms, women's business enterprises, and labor surplus area firms:

- (a) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- (b) Ensuring that small and minority businesses and women's business enterprises are solicited whenever they are potential sources;
- (c) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses and women's business enterprises;
- (d) Establishing delivery schedules, where the requirements of the contract permit, which encourage participation by small and minority businesses and women's business

enterprises; and

- (e) Using the services and assistance of the U.S. Small Business Administration, the Minority Business Development Agency of the U.S. Department of Commerce, and State and local governmental small business agencies.

39. Equal Employment Opportunity

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

- (a) The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, or handicap.
- (b) The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated and change orders to the foregoing, entered into by a subcontractor to furnish supplies, materials, equipment, and

services for the performance of the prime contract or a subcontract.

during employment without regard to their race, color, religion, sex, national origin, or handicap. Such action shall include, but not be limited to, (1) employment, (2) upgrading, (3) demotion, (4) transfer, (5) recruitment or recruitment advertising, (6) layoff or termination, (7) rates of pay or other forms of compensation, and (8) selection for training, including apprenticeship.

- (c) The Contractor shall post in conspicuous places available to employees and applicants for employment the notices to be provided by the Contracting Officer that explain this clause.
- (d) The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin, or handicap.
- (e) The Contractor shall send, to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, the notice to be provided by the Contracting Officer advising the labor union or workers' representative of the Contractor's commitments under this clause, and post copies of the notice in conspicuous places available to employees and applicants for employment.
- (f) The Contractor shall comply with Executive Order 11246, as amended, and the rules, regulations, and orders of the Secretary of Labor.
- (g) The Contractor shall furnish all information and reports required by Executive Order 11246, as amended, Section 503 of the Rehabilitation Act of 1973, as amended, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto. The Contractor shall permit access to its books, records, and accounts by the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (h) In the event of a determination that the Contractor is not in compliance with this clause or any rule, regulation, or order of the Secretary of Labor, this contract may be canceled, terminated, or suspended in whole or in part, and the Contractor may be declared ineligible for further Government contracts, or Federally assisted construction contracts under the procedures authorized in Executive Order 11246, as amended. In addition, sanctions may be imposed and remedies invoked against the Contractor as provided in Executive Order 11246, as amended, the rules, regulations, and orders of the Secretary of Labor, or as otherwise provided by law.
- (i) The Contractor shall include the terms and conditions of this clause in every subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor issued under Executive Order 11246, as amended, so that these terms and conditions will be binding upon each subcontractor or vendor. The Contractor shall take such action with respect to any subcontract or purchase order as the Secretary of Housing and Urban Development or the Secretary of Labor may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided that if the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.
- (j) Compliance with the requirements of this clause shall be to the maximum extent consistent with, but not in derogation of, compliance with section 7(b) of the Indian Self-Determination and Education Assistance Act and the Indian Preference clause of this contract.

- (a) The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- (b) The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 135 regulations.
- (c) The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- (d) The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.
- (e) The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR Part 135.
- (f) Noncompliance with HUD's regulations in 24 CFR Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.
- (g) With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of

40. Employment, Training, and Contracting Opportunities for Low-Income Persons, Section 3 of the Housing and Urban Development Act of 1968

compliance with section 7(b).

41. Interest of Members of Congress

No member of or delegate to the Congress of the United States of America shall be admitted to any share or part of this contract or to any benefit that may arise therefrom.

42. Interest of Members, Officers, or Employees and

Former Members, Officers, or Employees

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

43. Limitations on Payments made to Influence Certain Federal Financial Transactions

- (a) The Contractor agrees to comply with Section 1352 of Title 31, United States Code which prohibits the use of Federal appropriated funds to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered Federal actions: the awarding of any Federal contract; the making of any Federal grant; the making of any Federal loan; the entering into of any cooperative agreement; or the modification of any Federal contract, grant, loan, or cooperative agreement.
- (b) The Contractor further agrees to comply with the requirement of the Act to furnish a disclosure (OMB Standard Form LLL, Disclosure of Lobbying Activities) 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 in connection with a Federal contract, grant, loan, or cooperative agreement.

44. Royalties and Patents

The Contractor shall pay all royalties and license fees. It shall defend all suits or claims for infringement of any patent rights and shall save the PHA harmless from loss on account thereof; except that the PHA shall be responsible for all such loss when a particular design, process or the product of a particular manufacturer or manufacturers is specified and the Contractor has no reason to believe that the specified design, process, or product is an infringement. If, however, the Contractor has reason to believe that any design, process or product specified is an infringement of a patent, the Contractor shall promptly notify the Contracting Officer. Failure to give such notice shall make the Contractor responsible for resultant loss.

45. Examination and Retention of Contractor's Records

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

excerpts, and transcriptions.

- (b) The Contractor agrees to include in first-tier subcontracts under this contract a clause substantially the same as paragraph (a) above. "Subcontract," as used in this clause, excludes purchase orders not exceeding \$10,000.
- (c) The periods of access and examination in paragraphs (a) and (b) above for records relating to (1) appeals under the Disputes clause of this contract, (2) litigation or settlement of claims arising from the performance of this contract, or (3) costs and expenses of this contract to which the PHA, HUD, or Comptroller General or any of their duly authorized representatives has taken exception shall continue until disposition of such appeals, litigation, claims, or exceptions.

46. Labor Standards - Davis-Bacon and Related Acts

If the total amount of this contract exceeds \$2,000, the Federal labor standards set forth in the clause below shall apply to the development or construction work to be performed under the contract.

- (a) Minimum Wages.
- (1) All laborers and mechanics employed under this contract in the development or construction of the project(s) involved will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the regular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits in the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein; provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR 5.5(a)(1)(ii) and the Davis-Bacon poster (WH-1321) shall

be posted at all times by the Contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

- (2) (i) Any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits therefor only when all the following criteria have been met: (A) The work to be performed by the classification requested is not performed by a classification in the wage determination; and (B) The classification is utilized in the area by the construction industry; and (C) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.
- (ii) If the Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, Employee Standards Administration, U.S. Department of Labor, Washington, DC20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary.
- (iii) In the event the Contractor, the laborers or mechanics to be employed in the classification or their representatives, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator of the Wage and Hour Division for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary.
- (iv) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (a)(2)(ii) or (iii) of this clause shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in classification.
- (3) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the Contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.
- (4) If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part of the wages of any laborer or mechanic the

amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program; provided, that the Secretary of Labor has found, upon the written request of the Contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

- (b) Withholding of funds. HUD or its designee shall, upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the Contractor under this contract or any other Federal contract with the same prime Contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime Contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the Contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working in the construction or development of the project, all or part of the wages required by the contract, HUD or its designee may, after written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the Contractor, disburse such amounts withheld for and on account of the Contractor or subcontractor to the respective employees to whom they are due.
- (c) Payrolls and basic records.
- (1) Payrolls and basic records relating thereto shall be

maintained by the Contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working in the construction or development of the project. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made, and actual wages paid. Whenever the Secretary of Labor has found, under 29 CFR 5.5(a)(1)(iv), that the wages of any laborer or mechanic include the amount of costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(2) (i) The Contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Contracting Officer for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under subparagraph (c)(1) of this clause. This information may be submitted in any form desired. Optional Form WH-347 (Federal Stock Number 029-005-00014-1) is available for this purpose and may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The Contractor is responsible for the submission of copies of payrolls by all subcontractors. (Approved by the Office of Management and Budget under OMB

Control Number 1214-0149.)

- (ii) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the Contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:
- (A) That the payroll for the payroll period contains the information required to be maintained under paragraph (c) (1) of this clause and that such information is correct and complete;
 - (B) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29

CFR Part 3; and

- (C) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

- (iii) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirements for submission of the "Statement of Compliance" required by subparagraph (c)(2)(ii) of this clause.
- (iv) The falsification of any of the above certifications may subject the Contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 3729 of Title 31 of the United States Code.

(3) The Contractor or subcontractor shall make the records required under subparagraph (c)(1) available for inspection, copying, or transcription by authorized representatives of HUD or its designee, the Contracting Officer, or the Department of Labor and shall permit such representatives to interview employees during working hours on the job. If the Contractor or subcontractor fails to submit the required records or to make them available, HUD or its designee may, after written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payment,

make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

- (d) (1) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship and Training, Employer and Labor Services (OATELS), or with a State Apprenticeship Agency recognized by OATELS, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by OATELS or a State Apprenticeship Agency (where

appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the Contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated in this paragraph, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's

hourly rate) specified in the Contractor's or to submit the required records upon request or to

subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator of the Wage and Hour Division determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event OATELS, or a State Apprenticeship Agency recognized by OATELS, withdraws approval of an apprenticeship program, the Contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

- (2) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under

the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed in the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate in the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate in the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate in the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(3) Equal employment opportunity. The utilization of apprentices, trainees, and journeymen under this clause shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

(e) Compliance with Copeland Act requirements. The Contractor shall comply with the requirements of 29 CFR Part 3, which are hereby incorporated by reference in this

contract.

(f) Contract termination; debarment. A breach of this contract clause may be grounds for termination of the contract and for debarment as a Contractor and a subcontractor as provided in 29 CFR 5.12.

(g) Compliance with Davis-Bacon and related Act requirements. All rulings and interpretations of the Davis-Bacon and related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract.

(h) Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this clause shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the Contractor (or any of its subcontractors) and the PHA, HUD, the U.S. Department of Labor, or the employees or their representatives.

(i) Certification of eligibility.

(1) By entering into this contract, the Contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the Contractor'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).

(2) No part of this contract shall be subcontracted to any person or firm ineligible for award of a United States Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

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

(j) Contract Work Hours and Safety Standards Act. As used in this paragraph, the terms "laborers" and "mechanics" include watchmen and guards.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics, including watchmen and guards, shall require or permit any such laborer or mechanic in any workweek in which the individual is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the provisions set forth in subparagraph (j)(1) of this clause, the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic (including watchmen and guards) employed in violation of the provisions set forth in subparagraph (j)(1) of this clause, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by provisions set forth in subparagraph (j)(1) of this

clause.

(3) Withholding for unpaid wages and liquidated damages. HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such contract or any Federal contract with the same prime Contractor, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the provisions set forth in subparagraph (j)(2) of this clause.

(k) Subcontracts. The Contractor or subcontractor shall insert in any subcontracts all the provisions contained in this clause, and such other clauses as HUD or its designee may by appropriate instructions require, and also a clause requiring the subcontractors to include these provisions in any lower tier subcontracts. The prime Contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all these provisions.

47. Non-Federal Prevailing Wage Rates

- (a) Any prevailing wage rate (including basic hourly rate and any fringe benefits), determined under State or tribal law to be prevailing, with respect to any employee in any trade or position employed under the contract, is inapplicable to the contract and shall not be enforced against the Contractor or any subcontractor, with respect to employees engaged under the contract whenever such non-Federal prevailing wage rate exceeds:
 - (1) The applicable wage rate determined by the Secretary of Labor pursuant to the Davis-Bacon Act (40 U.S.C. 3141 et seq.) to be prevailing in the locality with respect to such trade;
- (b) An applicable apprentice wage rate based thereon specified in an apprenticeship program registered with the U.S. Department of Labor (DOL) or a DOL-recognized State Apprenticeship Agency; or
- (c) An applicable trainee wage rate based thereon specified in a DOL-certified trainee program.

48. Procurement of Recovered Materials.

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

"General Decision Number: AL20240052 01/05/2024

Superseded General Decision Number: AL20230052

State: Alabama

Construction Type: Residential

County: Madison County in Alabama.

RESIDENTIAL CONSTRUCTION PROJECTS (consisting of single family homes and apartments up to and including 4 stories).

Note: Contracts subject to the Davis-Bacon Act are generally required to pay at least the applicable minimum wage rate required under Executive Order 14026 or Executive Order 13658.

Please note that these Executive Orders apply to covered contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but do not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(1).

If the contract is entered	. Executive Order 14026
into on or after January 30,	generally applies to the
2022, or the contract is	contract.
renewed or extended (e.g., an	. The contractor must pay
option is exercised) on or	all covered workers at
after January 30, 2022:	least \$17.20 per hour (or
	the applicable wage rate
	listed on this wage

| determination, if it is
| higher) for all hours
| spent performing on the
| contract in 2024.

| If the contract was awarded on |. Executive Order 13658
| or between January 1, 2015 and | generally applies to the
| January 29, 2022, and the | contract.
| contract is not renewed or |. The contractor must pay
all | covered workers at least
| extended on or after January | \$12.90 per hour (or the
| 30, 2022: | applicable wage rate
| listed | on this wage
determination, | if it is higher) for all
| hours spent performing on
| that contract in 2024.

The applicable Executive Order minimum wage rate will be adjusted annually. If this contract is covered by one of the Executive Orders and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must still submit a conformance request.

Additional information on contractor requirements and worker protections under the Executive Orders is available at <http://www.dol.gov/whd/govcontracts>.

Modification Number Publication Date
 0 01/05/2024

SUAL2007-136 10/23/2007

	Rates	Fringes
BRICKLAYER.	\$ 15.00 **	0.00
CARPENTER, Includes Form Work. ..	\$ 13.97 **	2.73
CEMENT MASON/CONCRETE FINISHER...	\$ 10.10 **	0.00
ELECTRICIAN.	\$ 10.82 **	0.00
IRONWORKER, ORNAMENTAL.	\$ 10.46 **	0.00
IRONWORKER, STRUCTURAL.	\$ 16.36 **	3.40
LABORER: Common or General.	\$ 7.50 **	0.00
LABORER: Landscape.	\$ 8.57 **	0.00
LABORER: Mason Tender - Cement/Concrete.	\$ 7.88 **	0.00
LABORER: Pipelayer.	\$ 9.00 **	0.00
OPERATOR: Backhoe.	\$ 11.20 **	0.00
OPERATOR: Bulldozer.	\$ 15.00 **	0.00
OPERATOR: Loader (Front End). ..	\$ 12.52 **	0.00
PAINTER.	\$ 11.00 **	0.00
PLUMBER.	\$ 12.51 **	0.00

ROOFER, Includes Built Up, Metal, Shake & Shingle, and Single Ply Roofs.	\$ 9.17 **	0.00
SHEET METAL WORKER.	\$ 12.82 **	0.00
TRUCK DRIVER.	\$ 9.86 **	0.00

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

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** Workers in this classification may be entitled to a higher minimum wage under Executive Order 14026 (\$17.20) or 13658 (\$12.90). Please see the Note at the top of the wage determination for more information. Please also note that the minimum wage requirements of Executive Order 14026 are not currently being enforced as to any contract or subcontract to which the states of Texas, Louisiana, or Mississippi, including their agencies, are a party.

Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including

preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at <https://www.dol.gov/agencies/whd/government-contracts>.

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

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

Union Rate Identifiers

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

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

Survey Rate Identifiers

Classifications listed under the ""SU"" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average

calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

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

Union Average Rate Identifiers

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

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

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

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

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

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

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

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

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

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

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

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

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

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END OF GENERAL DECISION"

A. APPLICABILITY

The Project or Program to which the construction work covered by this Contract pertains is being assisted by the United States of America, and the following Federal Labor Standards Provisions are included in this Contract pursuant to the provisions applicable to such Federal assistance.

1. Minimum wages and fringe benefits

- i. All laborers and mechanics employed or working upon the site of the work (or otherwise working in construction or development of the project under a development statute), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of basic hourly wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. As provided in 29 CFR 5.5(d) and (e), the appropriate wage determinations are effective by operation of law even if they have not been attached to the contract. Contributions made or costs reasonably anticipated for bona fide fringe benefits under the Davis-Bacon Act (40 U.S.C. 3141(2)(B)) on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(v) of these contract clauses; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics must be paid the appropriate wage rate and fringe benefits on the wage determination for the classification(s) of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: *Provided*, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classifications and wage rates conformed under 29 CFR 5.5(a)(1)(iii)) and the Davis-Bacon poster (WH-1321) must be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

ii. Frequently recurring classifications

A. In addition to wage and fringe benefit rates that have been determined to be prevailing under the procedures set forth in 29 CFR part 1, a wage determination may contain, pursuant to § 1.3(f), wage and fringe benefit rates for classifications of laborers and mechanics for which conformance requests are regularly submitted pursuant to 29 CFR 5.5(a)(1)(iii), provided that:

1. The work performed by the classification is not performed by a classification in the wage determination for which a prevailing wage rate has been determined;
 2. The classification is used in the area by the construction industry; and
 3. The wage rate for the classification bears a reasonable relationship to the prevailing wage rates contained in the wage determination.
- B.** The Administrator will establish wage rates for such classifications in accordance with 29 CFR 5.5(a)(1)(iii)(A)(3). Work performed in such a classification must be paid at no less than the wage and fringe benefit rate listed on the wage determination for such classification.

iii. Conformance

A. The contracting officer must require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract be

classified in conformance with the wage determination. Conformance of an additional classification and wage rate and fringe benefits is appropriate only when the following criteria have been met:

1. The work to be performed by the classification requested is not performed by a classification in the wage determination; and
 2. The classification is used in the area by the construction industry; and
 3. The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.
- B. The conformance process may not be used to split, subdivide, or otherwise avoid application of classifications listed in the wage determination.
- C. If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken will be sent by the contracting officer by email to DBAconformance@dol.gov. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.
- D. In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer will, by email to DBAconformance@dol.gov, refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.
- E. The contracting officer must promptly notify the contractor of the action taken by the Wage and Hour Division under 29 CFR 5.5 (a)(1)(iii)(C) and (D). The contractor must furnish a written copy of such determination to each affected worker or it must be posted as a part of the wage determination. The wage rate (including fringe benefits where appropriate) determined pursuant to 29 CFR 5.5 (a)(1)(iii)(C) or (D) must be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

iv. Fringe benefits not expressed as an hourly rate

Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor may either pay the benefit as stated in the wage determination or may pay another bona fide fringe benefit or an hourly cash equivalent thereof.

v. Unfunded plans

If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, *Provided*, That the Secretary of Labor has found, upon the written request of the contractor, in accordance with the criteria set forth in 29 CFR 5.28, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

- vi. Interest** In the event of a failure to pay all or part of the wages required by the contract, the contractor will be required to pay interest on any underpayment of wages.

2. Withholding

i. Withholding requirements

The U. S. Department of Housing and Urban Development may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime contractor or any subcontractor for the full amount of wages and monetary relief, including interest, required by the clauses set forth in 29 CFR 5.5(a) for violations of this contract, or to satisfy any such liabilities required by any other Federal contract, or federally assisted contract subject to Davis-Bacon labor standards, that is held by the same prime contractor (as defined in 29 CFR 5.2). The necessary funds may be withheld from the contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to Davis-Bacon labor standards requirements and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld. In the event of a contractor's failure to pay any laborer or mechanic, including any apprentice or helper working on the site of the work (or otherwise working in construction or development of the project under a development statute) all or part of the wages required by the contract, or upon the contractor's failure to submit the required records as discussed in 29 CFR 5.5(a)(3)(iv), HUD may on its own initiative and after written notice to the contractor, sponsor, applicant, owner, or other entity, as the case may be, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

ii. Priority to withheld funds

The Department has priority to funds withheld or to be withheld in accordance with 29 CFR 5.5(a)(2)(i) or (b)(3)(i), or both, over claims to those funds by:

- A. A contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;
- B. A contracting agency for its procurement costs;
- C. A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate;
- D. A contractor's assignee(s);
- E. A contractor's successor(s); or
- F. A claim asserted under the Prompt Payment Act, 31 U.S.C. 3901-3907.

3. Records and certified payrolls

i. Basic record requirements

- A. **Length of record retention.** All regular payrolls and other basic records must be maintained by the contractor and any subcontractor during the course of the work and preserved for all laborers and mechanics working at the site of the work (or otherwise working in construction or development of the project under a development statute) for a period of at least 3 years after all the work on the prime contract is completed.
- B. **Information required** Such records must contain the name; Social Security number; last known address, telephone number, and email address of each such worker; each worker's correct classification(s) of work actually performed; hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in 40 U.S.C. 3141(2)(B) of the Davis-Bacon Act); daily and weekly number of hours actually worked in total and on each covered contract; deductions made; and actual wages paid.
- C. **Additional records relating to fringe benefits.** Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(v) that the wages of any laborer or mechanic include the amount of any

costs reasonably anticipated in providing benefits under a plan or program described in 40 U.S.C. 3141(2)(B) of the Davis-Bacon Act, the contractor must maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits.

D. Additional records relating to apprenticeship Contractors with apprentices working under approved programs must maintain written evidence of the registration of apprenticeship programs, the registration of the apprentices, and the ratios and wage rates prescribed in the applicable programs.

ii. Certified payroll requirements

A. Frequency and method of submission The contractor or subcontractor must submit weekly, for each week in which any DBA- or Related Acts-covered work is performed, certified payrolls to HUD if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the certified payrolls to the applicant, sponsor, owner, or other entity, as the case may be, that maintains such records, for transmission to HUD. The prime contractor is responsible for the submission of all certified payrolls by all subcontractors. A contracting agency or prime contractor may permit or require contractors to submit certified payrolls through an electronic system, as long as the electronic system requires a legally valid electronic signature; the system allows the contractor, the contracting agency, and the Department of Labor to access the certified payrolls upon request for at least 3 years after the work on the prime contract has been completed; and the contracting agency or prime contractor permits other methods of submission in situations where the contractor is unable or limited in its ability to use or access the electronic system

B. Information required The certified payrolls submitted must set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i)(B), except that full Social Security numbers and last known addresses, telephone numbers, and email addresses must not be included on weekly transmittals. Instead, the certified payrolls need only include an individually identifying number for each worker (*e.g.*, the last four digits of the worker's Social Security number). The required weekly certified payroll information may be submitted using Optional Form WH-347 or in any other format desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/wh347.pdf> or its successor website. It is not a violation of this section for a prime contractor to require a subcontractor to provide full Social Security numbers and last known addresses, telephone numbers, and email addresses to the prime contractor for its own records, without weekly submission by the subcontractor to the sponsoring government agency (or the applicant, sponsor, owner, or other entity, as the case may be, that maintains such records).

C. Statement of Compliance Each certified payroll submitted must be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor, or the contractor's or subcontractor's agent who pays or supervises the payment of the persons working on the contract, and must certify the following:

1. That the certified payroll for the payroll period contains the information required to be provided under 29 CFR 5.5(a)(3)(ii), the appropriate information and basic records are being maintained under 29 CFR 5.5 (a)(3)(i), and such information and records are correct and complete;
2. That each laborer or mechanic (including each helper and apprentice) working on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly

from the full wages earned, other than permissible deductions as set forth in 29 CFR part 3; and

3. That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification(s) of work actually performed, as specified in the applicable wage determination incorporated into the contract.
 - D. **Use of Optional Form WH-347** The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 will satisfy the requirement for submission of the “Statement of Compliance” required by 29 CFR 5.5(a)(3)(ii)(C).
 - E. **Signature** The signature by the contractor, subcontractor, or the contractor’s or subcontractor’s agent must be an original handwritten signature or a legally valid electronic signature.
 - F. **Falsification** The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under 18 U.S.C. 1001 and 31 U.S.C. 3729.
 - G. **Length of certified payroll retention** The contractor or subcontractor must preserve all certified payrolls during the course of the work and for a period of 3 years after all the work on the prime contract is completed.
- iii. **Contracts, subcontracts, and related documents** The contractor or subcontractor must maintain this contract or subcontract and related documents including, without limitation, bids, proposals, amendments, modifications, and extensions. The contractor or subcontractor must preserve these contracts, subcontracts, and related documents during the course of the work and for a period of 3 years after all the work on the prime contract is completed.

iv Required disclosures and access

- A. **Required record disclosures and access to workers** The contractor or subcontractor must make the records required under 29 CFR 5.5(a)(3)(i)–(iii), and any other documents that HUD or the Department of Labor deems necessary to determine compliance with the labor standards provisions of any of the applicable statutes referenced by 29 CFR 5.1, available for inspection, copying, or transcription by authorized representatives of HUD or the Department of Labor, and must permit such representatives to interview workers during working hours on the job.
- B. **Sanctions for non-compliance with records and worker access requirements** If the contractor or subcontractor fails to submit the required records or to make them available, or refuses to permit worker interviews during working hours on the job, the Federal agency may, after written notice to the contractor, sponsor, applicant, owner, or other entity, as the case may be, that maintains such records or that employs such workers, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available, or to permit worker interviews during working hours on the job, may be grounds for debarment action pursuant to 29 CFR 5.12. In addition, any contractor or other person that fails to submit the required records or make those records available to WHD within the time WHD requests that the records be produced will be precluded from introducing as evidence in an administrative proceeding under 29 CFR part 6 any of the required records that were not provided or made available to WHD. WHD will take into consideration a reasonable request from the contractor or person for an extension of the time for submission of records. WHD will determine the reasonableness of the request and may consider, among other things, the location of the records and the volume of production.
- C. **Required information disclosures** Contractors and subcontractors must maintain the full Social Security number and last known address, telephone number, and email address of each covered worker, and must provide them upon request to HUD if the agency is a party to

the contract, or to the Wage and Hour Division of the Department of Labor. If the Federal agency is not such a party to the contract, the contractor, subcontractor, or both, must, upon request, provide the full Social Security number and last known address, telephone number, and email address of each covered worker to the applicant, sponsor, owner, or other entity, as the case may be, that maintains such records, for transmission to HUD, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or other compliance action.

4. **Apprentices and equal employment opportunity**

i. **Apprentices**

- A. Rate of pay** Apprentices will be permitted to work at less than the predetermined rate for the work they perform when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship (OA), or with a State Apprenticeship Agency recognized by the OA. A person who is not individually registered in the program, but who has been certified by the OA or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice, will be permitted to work at less than the predetermined rate for the work they perform in the first 90 days of probationary employment as an apprentice in such a program. In the event the OA or a State Apprenticeship Agency recognized by the OA withdraws approval of an apprenticeship program, the contractor will no longer be permitted to use apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.
- B. Fringe benefits** Apprentices must be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringe benefits must be paid in accordance with that determination.
- C. Apprenticeship ratio** The allowable ratio of apprentices to journeyworkers on the job site in any craft classification must not be greater than the ratio permitted to the contractor as to the entire work force under the registered program or the ratio applicable to the locality of the project pursuant to 29 CFR 5.5(a)(4)(i)(D). Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated in 29 CFR 5.5(a)(4)(i)(A), must be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under this section must be paid not less than the applicable wage rate on the wage determination for the work actually performed.
- D. Reciprocity of ratios and wage rates** Where a contractor is performing construction on a project in a locality other than the locality in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyworker's hourly rate) applicable within the locality in which the construction is being performed must be observed. If there is no applicable ratio or wage rate for the locality of the project, the ratio and wage rate specified in the contractor's registered program must be observed.

ii Equal employment opportunity The use of apprentices and journeyworkers under this part must be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

5 **Compliance with Copeland Act requirements.** The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

6 Subcontracts. The contractor or subcontractor must insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (11), along with the applicable wage determination(s) and such other clauses or contract modifications as the U.S. Department of Housing and Urban Development may by appropriate instructions require, and a clause requiring the subcontractors to include these clauses and wage determination(s) in any lower tier subcontracts. The prime contractor is responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this section. In the event of any violations of these clauses, the prime contractor and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss, due to any workers of lower-tier subcontractors, and may be subject to debarment, as appropriate.

7 Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8 Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

9 Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of eligibility.

i. By entering into this contract, the contractor certifies that neither it nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of 40 U.S.C. 3144(b) or 29 CFR 5.12(a).

ii. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of 40 U.S.C. 3144(b) or 29 CFR 5.12(a).

iii. The penalty for making false statements is prescribed in the U.S. Code, Title 18 Crimes and Criminal Procedure, 18 U.S.C. 1001.

11 Anti-retaliation It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:

i. Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the DBA, Related Acts, or 29 CFR parts 1, 3, or 5;

ii. Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under the DBA, Related Acts, or 29 CFR parts 1, 3, or 5;

iii. Cooperating in any investigation or other compliance action, or testifying in any proceeding under the DBA, Related Acts, or 29 CFR parts 1, 3, or 5; or

iv. Informing any other person about their rights under the DBA, Related Acts, or 29 CFR parts 1, 3, or 5.

B. Contract Work Hours and Safety Standards Act (CWHSSA)

The Agency Head must cause or require the contracting officer to insert the following clauses set forth in 29 CFR 5.5(b)(1), (2), (3), (4), and (5) in full, or (for contracts covered by the Federal Acquisition Regulation) by reference, in any contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses must

be inserted in addition to the clauses required by 29 CFR 5.5(a) or 4.6. As used in this paragraph, the terms “laborers and mechanics” include watchpersons and guards.

1. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in 29 CFR 5.5(b)(1) the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages and interest from the date of the underpayment. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchpersons and guards, employed in violation of the clause set forth in 29 CFR 5.5(b)(1), in the sum of \$31 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in 29 CFR 5.5(b)(1).

3. Withholding for unpaid wages and liquidated damages

i. Withholding process The U.S Department of Housing and Urban Development or the recipient of Federal assistance may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime contractor or any subcontractor for any unpaid wages; monetary relief, including interest; and liquidated damages required by the clauses set forth in 29 CFR 5.5(b) on this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract subject to the Contract Work Hours and Safety Standards Act that is held by the same prime contractor (as defined in 29 CFR 5.2). The necessary funds may be withheld from the contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to the Contract Work Hours and Safety Standards Act and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld.

ii Priority to withheld funds The Department has priority to funds withheld or to be withheld in accordance with 29 CFR 5.5(a)(2)(i) or (b)(3)(i), or both, over claims to those funds by:

- A.** A contractor’s surety(ies), including without limitation performance bond sureties and payment bond sureties;
- B.** A contracting agency for its procurement costs;
- C.** A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor’s bankruptcy estate;
- D.** A contractor’s assignee(s);
- E.** A contractor’s successor(s); or
- F.** A claim asserted under the Prompt Payment Act, 31 U.S.C. 3901-3907.

4. Subcontracts. The contractor or subcontractor must insert in any subcontracts the clauses set forth in 29 CFR 5.5(b)(1) through (5) and a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor is responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in 29 CFR 5.5(b)(1) through (5). In the event of any violations of these clauses, the prime contractor and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss,

due to any workers of lower-tier subcontractors, and associated liquidated damages and may be subject to debarment, as appropriate.

- 5 Anti-retaliation** It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:
- i. Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the Contract Work Hours and Safety Standards Act (CWHSSA) or its implementing regulations in 29 CFR part 5;
 - ii. Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under CWHSSA or 29 CFR part 5;
 - iii. Cooperating in any investigation or other compliance action, or testifying in any proceeding under CWHSSA or 29 CFR part 5; or
 - iv. Informing any other person about their rights under CWHSSA or 29 CFR part 5.
- C. CWHSSA required records clause** In addition to the clauses contained in 29 CFR 5.5(b), in any contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other laws referenced by 29 CFR 5.1, the Agency Head must cause or require the contracting officer to insert a clause requiring that the contractor or subcontractor must maintain regular payrolls and other basic records during the course of the work and must preserve them for a period of 3 years after all the work on the prime contract is completed for all laborers and mechanics, including guards and watchpersons, working on the contract. Such records must contain the name; last known address, telephone number, and email address; and social security number of each such worker; each worker's correct classification(s) of work actually performed; hourly rates of wages paid; daily and weekly number of hours actually worked; deductions made and actual wages paid. Further, the Agency Head must cause or require the contracting officer to insert in any such contract a clause providing that the records to be maintained under this paragraph must be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the (write the name of agency) and the Department of Labor, and the contractor or subcontractor will permit such representatives to interview workers during working hours on the job.
- D. Incorporation of contract clauses and wage determinations by reference** Although agencies are required to insert the contract clauses set forth in this section, along with appropriate wage determinations, in full into covered contracts, and contractors and subcontractors are required to insert them in any lower-tier subcontracts, the incorporation by reference of the required contract clauses and appropriate wage determinations will be given the same force and effect as if they were inserted in full text.
- E. Incorporation by operation of law** The contract clauses set forth in this section (or their equivalent under the Federal Acquisition Regulation), along with the correct wage determinations, will be considered to be a part of every prime contract required by the applicable statutes referenced by 29 CFR 5.1 to include such clauses, and will be effective by operation of law, whether or not they are included or incorporated by reference into such contract, unless the Administrator grants a variance, tolerance, or exemption from the application of this paragraph. Where the clauses and applicable wage determinations are effective by operation of law under this paragraph, the prime contractor must be compensated for any resulting increase in wages in accordance with applicable law.

F. HEALTH AND SAFETY

The provisions of this paragraph (F) are applicable where the amount of the prime contract exceeds **\$100,000**.

1. No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his or her health and safety, as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.
2. The contractor shall comply with all regulations issued by the Secretary of Labor pursuant to 29 CFR Part 1926 and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act, (Public Law 91-54, 83 Stat 96), 40 U.S.C. § 3701 et seq.
3. The contractor shall include the provisions of this paragraph in every subcontract, so that such provisions will be binding on each subcontractor. The contractor shall take such action with respect to any subcontractor as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions.

Schedule of Amounts for Contract Payments

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

OMB Approval No. 2577-0157
(Exp. 1/31/2027)

No progress payments shall be made to the contractor unless a schedule of amounts for contract payments in accordance with the construction contract is received.

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. HUD may not conduct or sponsor, and an applicant is not required to respond to a collection of information unless it displays a currently valid OMB control number. Comments regarding the accuracy of this burden estimate and any suggestions for reducing this burden can be sent to the Reports Management Officer, Office of Policy Development and Research, REE, Department of Housing and Urban Development, 451 7th St SW, Room 4176, Washington, DC 20410-5000. When providing comments, please refer to OMB Approval No. 2577-0157. Construction practices and HUD administrative requirements establish the need that HAs maintain certain records or submit certain documents in conjunction with the oversight of the award of construction contracts for the construction of new low-income housing developments or modernization of existing developments. These forms are used by HAs to provide information on the construction progress schedule and schedule of amounts for contract payments. Responses to the collection of information are required to obtain a benefit or to retain a benefit. The information requested does not lend itself to confidentiality.

Project Name and Location	Project Number
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Name, Address, and Zip Code of Contractor	Contract Number
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Nature of Contract	Contract Number
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Approved for Contractor by	Title	Date (mm/dd/yyyy)
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Approved for Architect by	Title	Date (mm/dd/yyyy)
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Approved for Owner by	Title	Date (mm/dd/yyyy)
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Item No. (1)	Description of Item (2)	Quantity (3)	Unit of Measure (4)	Unit Price in Place (5)	Amount of Sub-Item (6)	Amount of Principal Item (7)
			D			

Total Amount of Contract or Carried Forward	\$
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To the best of my knowledge, all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate.
Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

Signature of authorized representative	Date signed (mm/dd/yyyy)
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form **HUD-**
51000 (7/97)
ref Handbooks
7417.1 and
7485.1

Instructions for Preparation of form HUD-51000

1. A separate breakdown is required for each project and prime contract instructions for preparation are given below.
 - a. **Heading.** Enter all identifying information required for both forms.
 - b. **Columns 1 and 2.** In column 1, enter the item numbers starting with No. 1, and in column 2 enter each principal division of work incorporated in the contract work.
 - (1) **Master List.** The Master list contains the basic items into which any construction contract may be subdivided for the purpose of preparing the Construction Progress Schedule and the Periodical Estimates for Partial Payments. Only those items shall be selected which apply to the particular contract. To ensure uniformity, no change shall be made in the item numbers. Generally, about 25 to 40 major items appear in a contract.
 - (2) **Items Subdivided.** In the Contractor's breakdown, against which all periodical estimates will be checked prior to payment, each major item must be subdivided into sub-items pertinent to the project involved and in agreement with the Contractor's intended basis for requesting monthly payments.
 - c. **Column 3.** Enter the total quantity for each sub-item of each principal division of work listed in the breakdown.
 - d. **Column 4.** Enter the appropriate unit of measure for each sub-item of work opposite the quantities described in column 3, such as "sq. ft.," "cu. yd.," "tons," "lb.," "lumber per M/BM," "brickwork per M," etc., applicable to the particular sub-item. Items shown on "lump sum" or equivalent basis will be paid for only on completion of the whole item and not on a percentage of completion basis.
 - e. **Column 5.** Enter the unit price, in place, of each sub-item of work.
 - f. **Column 6.** Enter the amount of each sub-item obtained by multiplying the quantities in column 3 by the corresponding unit prices in column 5.
 - g. **Column 7.** Enter the amount of principal item only, obtained by adding the amounts of all sub-items of each principal division of work listed in column 6. Continue with the breakdown on form HUD-51000.
 - h. The "Schedule of Amounts for Contract Payments" shall be signed and dated in the space provided at the bottom of each sheet of the form by the individual who prepared the breakdown for the Contractor.
2. The minimum number of copies required for each submission for approval is an original and two copies. When approved, one fully approved copy will be returned to the Contractor.

Master List of Items

Item No.	Division of Work	Item No.	Division of Work	Item No.	Division of Work
1	Bond	20	Rough Carpentry		Site Improvements
2	General Conditions	21	Metal Bucks	44	Retaining Walls
3	Demolition & Clearing	22	Caulking	45	Storm Sewers
	Structures	23	Weatherstripping	46	Sanitary Sewers
4	General Excavation	24	Lath & Plastering-Drywall	47	Water Distribution System
5	Footing Excavation	25	Stucco	48	Gas Distribution System
6	Backfill	26	Finish Carpentry	49	Electrical Distribution System
7	Foundation Piles & Caissons	27	Finish Hardware	50	Street & Yard Lighting
8	Concrete Foundations	28	Glass & Glazing	51	Fire & Police Alarm System
9	Concrete Superstructures	29	Metal Doors	52	Fire Protection System
10	Reinforcing Steel	30	Metal Base & Trim	53	Street Work
11	Waterproofing & Dampproofing	31	Toilet Partitions	54	Yard Work
12	Spandrel Waterproofing	32	Floors	55	(Other)
13	Structural Steel	33	Painting & Decorating	56	(Other)
14	Masonry	34	Screens		Equipment
15	Stonework	35	Plumbing	57	Shades & Drapery Rods
16	Miscellaneous & Ornamental Metal	36	Heating	58	Ranges
17	Metal Windows	37	Ventilating System	59	Refrigerators
18	Roofing	38	Electrical	60	Kitchen Cabinets & Work Tables
19	Sheet Metal	39	Elevators	61	Laundry Equipment
		40	Elevator Enclosures—Metal	62	(Other)
		41	Incinerators—Masonry & Parts		Punch List 12
		42	(Other)	63	Lawns & Planting
		43	(Other)	64	

1 General Conditions should be 3% to 5% of contract amount.

2 Punch List should be approximately 1/2 of 1% or \$30 per dwelling unit, whichever is greater.

Periodic Estimate for Partial Payment

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

OMB Approval No. 2577-015
7 (exp. 1/31/2027)

Submit original and one copy to the Public Housing Agency.
Complete instructions are on the back of this form.

Public reporting burden for this collection of information is estimated to average 3.5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. HUD may not conduct or sponsor, and an applicant is not required to respond to a collection of information unless it displays a currently valid OMB control number. Comments regarding the accuracy of this burden estimate and any suggestions for reducing this burden can be sent to the Reports Management Officer, Office of Policy Development and Research, REE, Department of Housing and Urban Development, 451 7th St SW, Room 4176, Washington, DC 20410-5000. When providing comments, please refer to OMB Approval No. 2577-0157. This information is collected under the authority of Section 6(c) of the U.S Housing Act of 1937 and HUD regulations. HAs are responsible for contract administration to ensure that the work for project development is done in accordance with State laws and HUD requirements. The contractor/subcontractor reports provide details and summaries on payments, change orders, and schedule of materials stored for the project. The information will be used to ensure that the total development costs, identified in the ACC, are kept as low as possible and consistent with HUD construction requirements. Responses to the collection are necessary to obtain a benefit. The information requested does not lend itself to confidentiality.

Name of Public Housing Agency	Periodic Estimate Number	Period From (mm/dd/yyyy) To (mm/dd/yyyy)
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Location of Project	Project Number
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Name of Contractor	Contract Number
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Item Number (1)	Description of Item (2)	Completed to Date (3)
		\$

Value of Contract Work Completed to Date (Transfer this total to line 5 on back of this sheet)	\$
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Previous editions are obsolete

form **HUD-51001** (1/2014)

Instructions

Headings. Enter all identifying data required. Periodic estimates must be numbered in sequence beginning with the number 1.

Columns 1 and 2. The "Item Number" and "Description of Item" must correspond to the number and descriptive title assigned to each principal division of work in the "Schedule of Amounts for Contract Payments", form

HUD-51000.

Column 3. Enter the accumulated value of each principal division of work completed as of the closing date of the periodic estimate. Enter the total in the space provided.

Certifications. The certification of the contractor includes the analysis of amounts used to determine the net balance due. In the first paragraph, enter the name of the Public Housing Agency, the contractor, and the date of the contract. Enter the calculations used in arriving at the "Balance Due This Payment" on lines 1 through 16.

Enter the contractor's name and signature in the certification following line 16. The latter portion of this certification relating to payment of legal rates of wages, is required by the contract before any payment may be made. However, if the contractor does not choose to certify on behalf of his/her subcontractors to wage payments made by them, he/she may modify the language to cover only himself /herself and attach a list of all subcontractors who employed labor on the site during the period covered by the Periodic Estimate, together with the individual certifications of each.

Certification of the Contractor or Duly Authorized Representative

According to the best of my knowledge and belief, I certify that all items and amounts shown on the other side of this form are correct; that all work has been performed and material supplied in full accordance with the items and conditions of the contract between the (name of owner) _____ and (contractor) _____

dated (mm/dd/yyyy) _____, and duly authorized deviations, substitutions, alterations, and additions; that the following is a true and correct statement of the Contract Account up to and including the last day of the period covered by this estimate, and that no part of the "Balance Due This Payment" has been received.

1. Original Contract Amount \$ _____

Approved Change Orders:

2. Additions (Total from Col. 3, form HUD-51002) \$ _____
3. Deductions (Total from Col. 5, form HUD-51002) \$ _____ (net) \$ _____
4. Current Adjusted Contract Amount (line 1 plus or minus net) \$ _____

Computation of Balance Due this Payment

5. Value of Original Contract work completed to date (from other side of this form) \$ _____

Completed Under Approved Change Orders

6. Additions (from Col. 4, form HUD-51002) \$ _____
7. Deductions (from Col.5, form HUD-51002) \$ _____ (net) \$ _____

8. Total Value of Work in Place (line 5 plus or minus net line 7) \$ _____

9. **Less:** Retainage, _____% \$ _____

10. Net amount earned to date (line 8 less line 9) \$ _____

11. **Less:** Previously earned (line 10, last Periodic Estimate) \$ _____

12. Net amount due, work in place (line 10 less line 11) \$ _____

Value of Materials Properly Stored

13. At close of this period (from form HUD-51004) \$ _____

14. **Less:** Allowed last period \$ _____

15. Increase (decrease) from amount allowed last period \$ _____

16. **Balance Due This Payment** \$ _____

I further certify that all just and lawful bills against the undersigned and his/her subcontractors for labor, material, and equipment employed in the performance of this contract have been paid in full in accordance with the terms and conditions of this contract, and that the undersigned and his/her subcontractors have complied with, or that there is an honest dispute with respect to, the labor provisions of this contract.

Name of Contractor _____ Signature of Authorized Representative _____ Title _____ Date (mm/dd/yyyy) _____

Certificate of Authorized Project Representative and of Contracting Officer

Each of us certifies that he/she has checked and verified this Periodic Estimate No. _____; that to the best of his/her knowledge and belief it is a true statement of the value of work performed and material supplied by the contractor; that all work and material included in this estimate has been inspected by him/her or by his/her authorized assistants; and that such work has been performed or supplied in full accordance with the drawings and specifications, all applicable accessibility requirements (including Section 504 and Title II of the Americans with Disabilities Act; and the Fair Housing Act and Title III of the Americans with Disabilities Act, if applicable), the terms and conditions of the contract, and duly authorized deviations, substitutions, alterations, and additions, all of which have been duly approved.

We, therefore, approve as the "Balance Due this Payment" the amount of \$ _____

Authorized Project Representative _____ Date (mm/dd/yyyy) _____ Contracting Officer _____ Date (mm/dd/yyyy) _____

Schedule of Change Orders

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

OMB Approval No. 2577-0157
(exp. 1/31/2027)

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. HUD may not conduct or sponsor, and an applicant is not required to respond to a collection of information unless it displays a currently valid OMB control number. Comments regarding the accuracy of this burden estimate and any suggestions for reducing this burden can be sent to the Reports Management Officer, Office of Policy Development and Research, REE, Department of Housing and Urban Development, 451 7th St SW, Room 4176, Washington, DC 20410-5000. When providing comments, please refer to OMB Approval No. 2577-0157. This information is collected under the authority of Section 6(c) of the U.S Housing Act of 1937 and HUD regulations. HAs are responsible for contract administration to ensure that the work for project development is done in accordance with State laws and HUD requirements. The contractor/subcontractor reports provide details and summaries on payments, change orders, and schedule of materials stored for the project. The information will be used to ensure that the total development costs, identified in the ACC, are kept as low as possible and consistent with HUD construction requirements. Responses to the collection are necessary to obtain a benefit. The information requested does not lend itself to confidentiality.

Instructions: Contractors use this form for reporting the details of approved Change Orders. Attach an original (or a copy) to each copy of the Periodic Estimate for Partial Payment (form HUD-51001) submission, and send to the Public Housing Agency. Complete all entries. Only Change Orders which bear the signatures required by the contract are to be recorded.

Name of Public Housing Agency	Supporting Periodic Estimate for Partial Payment Number	Period From (mm/dd/yyyy) to (mm/dd/yyyy)
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Location of Project	Project Number
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Name of Contractor	Contract Number
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Approved Change Orders		Additions		Deductions
Change Order Number (1)	Dated (mm/dd/yyyy) (2)	Total Amount of Change Order (3)	Value of Work Completed to Date (4)	Total Amount of Change Order (5)
		\$	\$	\$
Totals		\$	\$	\$

Authorized Project Representative	Date (mm/dd/yyyy)
-----------------------------------	-------------------

I certify that the information provided on this form and in any accompanying documentation is true and accurate. I acknowledge that making, presenting, or submitting a false, fictitious, or fraudulent statement, representation, or certification may result in criminal, civil, and/or administrative sanctions, including fines, civil penalties, and confinement for up to 5 years, (18 U.S.C. §§ 287, 1001 and 31 U.S.C. §3729)

Previous editions are obsolete.

form **HUD-51002** (1/2014)

Schedule of Materials Stored

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

OMB Approval No. 2577-0157
(exp. 1/301/2027)

Public reporting burden for this collection of information is estimated to average 1.5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. HUD may not conduct or sponsor, and an applicant is not required to respond to a collection of information unless it displays a currently valid OMB control number. Comments regarding the accuracy of this burden estimate and any suggestions for reducing this burden can be sent to the Reports Management Officer, Office of Policy Development and Research, REE, Department of Housing and Urban Development, 451 7th St SW, Room 4176, Washington, DC 20410-5000. When providing comments, please refer to OMB Approval No. 2577-0157. This information is collected under the authority of Section 6(c) of the U.S. Housing Act of 1937 and HUD regulations. HAs are responsible for contract administration to ensure that the work for project development is done in accordance with State laws and HUD requirements. The contractor/subcontractor reports provide details and summaries on payments, change orders, and schedule of materials stored for the project. The information will be used to ensure that the total development costs, identified in the ACC, are kept as low as possible and consistent with HUD construction requirements. Responses to the collection are necessary to obtain a benefit. The information requested does not lend itself to confidentiality.

Instructions: This form is to be used to support the Periodic Estimate for Partial Payment (form HUD-51001). The contractor must prepare a separate schedule for his/her materials and for those of his/her subcontractors. Attach an original (or a copy) to each copy of the Summary of Materials Stored (form HUD-51004). Enter all identifying data and list materials stored. The listing of materials stored must correspond to the arrangement established on the Schedule of Contract Payments (form HUD-51000) and each item will be keyed by corresponding item number. This form must be signed as noted.

Name of Public Housing Agency	Supporting Periodic Estimate for Partial Payment Number	Period From (mm/dd/yyyy)	To (mm/dd/yyyy)
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Name and Location of Project	Project Number
Name of General Contractor	Contract Number
Name of Subcontractor	Subcontract Number

Item Number*	Description and Quality	Quantity	Unit of Measure	Unit Price at Site	Total Price
Amount Carried Forward					\$

Total Amount or Amount Carried Forward					\$
Prepared by (Contractor's Representative)	Date (mm/dd/yyyy)	Checked by (Owner's Representative)	Date (mm/dd/yyyy)		

I certify that the information provided on this form and in any accompanying documentation is true and accurate. I acknowledge that making, presenting, or submitting a false, fictitious, or fraudulent statement, representation, or certification may result in criminal, civil, and/or administrative sanctions, including fines, penalties, and imprisonment.

*As identified in Schedule of Amounts for Contract Payments, form HUD-51000

Summary of Materials Stored

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

OMB Approval No. 2577-0157
(exp. 1/31/2027)

Public reporting burden for this collection of information is estimated to average 2.5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. HUD may not conduct or sponsor, and an applicant is not required to respond to a collection of information unless it displays a currently valid OMB control number. Comments regarding the accuracy of this burden estimate and any suggestions for reducing this burden can be sent to the Reports Management Officer, Office of Policy Development and Research, REE, Department of Housing and Urban Development, 451 7th St SW, Room 4176, Washington, DC 20410-5000. When providing comments, please refer to OMB Approval No. 2577-0157. This information is collected under the authority of Section 6(c) of the U.S Housing Act of 1937 and HUD regulations. HAs are responsible for contract administration to ensure that the work for project development is done in accordance with State laws and HUD requirements. The contractor/subcontractor reports provide details and summaries on payments, change orders, and schedule of materials stored for the project. The information will be used to ensure that the total development costs, identified in the ACC, are kept as low as possible and consistent with HUD construction requirements. Responses to the collection are necessary to obtain a benefit. The information requested does not lend itself to confidentiality.

Instructions: This form is for the Contractor to summarize the value of materials stored at the site (as shown on the schedule, form HUD-51003). Use a separate line for the contractor and each of his/her subcontractors. Prepare an original and one copy, attach form HUD-51003, and send to the Public Housing Agency with the Periodic Estimate for Partial Payment, form HUD-51001. **Payment Value.** No more than 90 percent of the estimated value of the stored materials will be allowed, and only the net amount will be carried to line 13 on the back of the Periodic Estimate for Partial Payment, form HUD-51001. **Signatures.** This form must be signed by those employees of the contractor and of the Public Housing Agency who prepare and check the Schedule of Materials Stored, form HUD-51003.

Name of Public Housing Agency	Supporting Periodic Estimate	Period	
	for Partial Payment Number	From (mm/dd/yyyy)	To (mm/dd/yyyy)
Location of Project			Project Number

Name of General Contractor	Contract Number
----------------------------	-----------------

Name of General Contractor or Subcontractor	Amounts
General Contractor	\$

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Subcontractors	\$
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	Total	\$
	Less 10%	\$
	Net	\$

Prepared by	Date (mm/dd/yyyy)	Checked by	Date (mm/dd/yyyy)
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I certify that I or my authorized representatives have examined and checked in detail the invoices representing the cost of materials set forth in appended "Schedule of Materials Stored", form HUD-51003, dated (mm/dd/yyyy) _____ submitted by _____ consisting of _____ sheets with an indicated cost of \$ _____, and find that the net unit prices set forth in the schedule are the same or less than the invoices examined, and that such materials were suitably stored at the site of the development as of (date)(mm/dd/yyyy) _____.

Name of Owner	By (Authorized Representative)	Title	Date (mm/dd/yyyy)
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Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802) form HUD-51004 (01/2011)

Previous editions are obsolete

Construction Progress Schedule

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. HUD may not conduct or sponsor, and an applicant is not required to respond to a collection of information unless it displays a currently valid OMB control number. Comments regarding the accuracy of this burden estimate and any suggestions for reducing this burden can be sent to the Reports Management Officer, Office of Policy Development and Research, REE, Department of Housing and Urban Development, 451 7th St SW, Room 4176, Washington, DC 20410-5000. When providing comments, please refer to OMB Approval No. 2577-0157. Construction practices and HUD administrative requirements establish the need that HAs maintain certain records or submit certain documents in conjunction with the oversight of the award of construction contracts for the construction of new low-income housing developments or modernization of existing developments. These forms are used by HAs to provide information on the construction progress schedule and schedule of amounts for contract payments. Responses to the collection of information are required to obtain a benefit or to retain a benefit. The information requested does not lend itself to confidentiality.

1. Name of Public Housing Agency/Indian Housing Authority (PHA/IHA)		
2. City	3. State	5. Project Name
4. Location		6. Project Number
7. Contract For		8. Contract Time (Days)
9. From (mm/dd/yyyy) To (mm/dd/yyyy)		10. Contract Price \$
11. Number of Buildings	12. Number of Dwelling Units	13. Number of Rooms

(Submit as many pages as necessary to cover the construction period.)	Year (yyyy)	Month					
Actual Monthly Value, Work in Place	(\$)						
Actual Accumulated Progress	(%)						
Anticipated Monthly Value	(\$)						
Accumulated Scheduled Progress	(%)						

Submitted by	Contractor's Name		
	Title	Signature	Date (mm/dd/yyyy)
Approved by	PHA/IHA		
	Title		Date (mm/dd/yyyy)
Approved by	Architect		Date (mm/dd/yyyy)

**Instructions for Preparation of Construction Progress Schedule
Form HUD-5372**

General. The information required for items 1 through 6 can be obtained from the contract documents. (7.) Enter the type of work awarded by the PHA/IHA. This may be "general construction," "plumbing," "heating," "electrical," etc., depending upon prime contract awards. (8.) Enter the contract time in calendar days (unless otherwise stated). (9.) Enter the starting and completion dates as established by the Notice to Proceed.

Year and Month. At the top of the Schedule, space is provided for inserting the "Year" and "Month" to identify the times during which the work is to be performed.

Year. Enter the year when the Notice to Proceed was issued. If the starting date of the contract is such that the time assigned for completion will be carried into a succeeding year, two yearly designations will be shown, each centered over the applicable spread of time for each year.

Month. The body of the Schedule is divided into Columns, each representing a period of one month. Starting in the Column with the month stated in the Notice to Proceed, enter at the top of each column the successive months corresponding to the entire spread of the total contract time. The Schedule must contain monthly columns to cover the entire active period of contract, with extra columns for possible overruns in contract time.

Computation of Anticipated Monthly Value of Work in Place

Before presenting the form for approval, enter in each monthly column the dollar value (omit cents) of the increment of work anticipated to be put in place during that interval of time. This shall be the Contractor's best estimate of the rate of progress for each month. This section contains a suggested guide for the elapsed contract time vs. progress percentages.

The horizontal total of the monthly dollars shown for "Anticipated Monthly Value" must equal the contract price shown in the heading.

Accumulated Scheduled Progress – %

Entries on this line shall show in percentage of total completion the cumulative stage of progress that is scheduled to be reached at the end of each monthly interval. It is generally sufficient to state this anticipated progress to the nearest tenth of one percent, but for very large contracts it may be advisable to extend computations to the nearest hundredth.

The entry for the first month's column should be the % obtained by the anticipated monthly dollar value of work in place at the close of the first month being divided by the contract price.

The entry for the second month's column is obtained by the sum of the anticipated monthly dollar values of work in place for Columns 1 and 2 being divided by the contract price.

Enter in the third month's column the percentage computed similarly, using the sum of dollar values of work in place for Columns 1, 2, and 3. Continue in this manner for the succeeding monthly columns until "100" is reached in the final column.

Charting Actual Progress. The horizontal space extending through the monthly columns is divided into "Actual Monthly Value of Work in Place – \$" and Actual Accumulated Progress – %." In each monthly column show the actual accumulated % of progress and the actual value of work in place for that month, as the work progresses. An anticipated complete shutdown at some stage in the work because of adverse seasonal weather or otherwise, as may occur in road work, excavation (grading), etc., is readily shown by a gap.

The Contractor's name shall be placed in the lower left-hand corner of the form, together with the signature and title of the employee who prepared the Schedule and the date. The form then shall be sent to the Architect for review. If the Architect considers that changes are necessary to make the Schedule more realistic, it will withhold approval and so advise the Contractor. When the form is acceptable and approved by the Architect, and the PHA/ IHA, it will be returned to the Contractor, who shall reproduce and submit the number and style of prints required by the PHA/ IHA.

Normal building construction experience has proved that the rate of overall progress (as measured by work in place) accelerates slowly at the start, reaches its peak in the middle third of the construction period, and tapers down at the close. The data following illustrate the general average expectancy of a well-balanced operation and may be used as a guide. If the proposed progress lies within reasonable range of these check points, the Schedule may be considered satisfactory insofar as the time-performance feature is involved.

% of Contract Time	% of Accumulated Progress
0	0
10	2
20	8
30	20
40	37
50	57
60	75
70	89
80	96
90	99
100	100

The foregoing percentages must be tempered by consideration of seasonal weather conditions and other known conditions which may affect the progress of the work. These percentages are offered for information only.

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

Office of Public and Indian Housing

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

Instructions to Bidders for Contracts

Public and Indian Housing Programs

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1. Bid Preparation and Submission

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

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

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

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

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

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

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

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

2. Explanations and Interpretations to Prospective Bidders

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

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

3. Amendments to Invitations for Bids

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

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

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

4. Responsibility of Prospective Contractor

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

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

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

5. Late Submissions, Modifications, and Withdrawal of Bids

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

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

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

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

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

(c) The only acceptable evidence to establish the date of mailing of a late bid, modification, or withdrawal sent either by registered or certified mail is the U.S. or Canadian Postal Service postmark both on the envelope or wrapper and on the original receipt from the U.S. or Canadian Postal Service. Both postmarks must show a legible date 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 —

Huntsville Housing Authority
Antonio McGinnis, Executive Director/CEO
P.O. Box 486
200 Washington Street
Huntsville, AL 35804

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

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

8. Contract Award

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

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

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

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

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

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

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

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

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

10. Assurance of Completion

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

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

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

[] (3) a 20 percent cash escrow;

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

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

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

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

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

11. Preconstruction Conference (applicable to construction contracts)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(k) The IHA [] does [X] 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.

SUPPLEMENTARY CONDITIONS TO THE CONSTRUCTION CONTRACT

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

OMB Approval No. 2502-0598
(Exp. 9/30/2021)

Public Reporting Burden for this collection of information is estimated to average 0.2 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Response to this request for information is required in order to receive the benefits to be derived. 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. While no assurance of confidentiality is pledged to respondents, HUD generally discloses this data only in response to a Freedom of Information Act request.

Warning: Federal law provides that anyone who knowingly or willfully submits (or causes to submit) a document containing any false, fictitious, misleading, or fraudulent statement/certification or entry may be criminally prosecuted and may incur civil administrative liability. Penalties upon conviction can include a fine and imprisonment, as provided pursuant to applicable law, which includes, but is not limited to, 18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802, 24 C.F.R. Parts 25, 28 and 30, and 2 C.F.R. Parts 180 and 2424.

Article 1: Labor Standards

A. Applicability. The Project or program to which the construction work covered by this Contract pertains is being assisted or insured by the United States of America, and the following Federal Labor Standards Provisions are included in this Contract or related instrument pursuant to the provisions applicable to such Federal assistance or insurance. Any statute or regulation contained herein shall also include any subsequent amendment or successor statute or regulation. The terms of this Supplementary Conditions to the Construction Contract (HUD-92554M) takes precedence over all provisions of the "General Conditions of the Contract for Construction" (AIA Document A201) inconsistent with said Supplementary Conditions.

B. Minimum Wages. Pursuant to Section 212 of the National Housing Act, as amended, 12 U.S.C. 1715c, the minimum wage provisions contained in this paragraph B do not apply to those projects with Security Instruments insured under Section 221(h)(1) designed for less than 9 families and they do not apply to those projects with Security Instruments insured under either Section 220 or 233 designed for less than 12 families.

1. (i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the Project) shall be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1 (b)(2) of the Davis-Bacon Act (40 U.S.C. 3141(2)(B)(ii)) on behalf of laborers or mechanics are considered wages paid to such laborers or

mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: *Provided*, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR 5.5(a)(1)(ii)) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(ii) (a) Any class of laborers or mechanics that is not listed in the wage determination and that is to be employed under this Contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits only when the following criteria have been met:

- (1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and
- (2) The classification is utilized in the area by the construction industry; and
- (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(b) If the Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, U.S. Department of Labor, Washington, D.C. 20210 (“**Administrator**”). The Administrator, or an authorized representative, shall approve, modify, or disapprove every additional classification action within thirty (30) days of receipt and so advise HUD or its designee or shall notify HUD or its designee within the thirty (30) day period that additional time is necessary.

(c) In the event the Contractor, the laborers or mechanics to be employed in the classification or their representatives and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator for determination. The Administrator, or an authorized representative, shall issue a determination within thirty (30) days of receipt and so advise HUD or its

designee or shall notify HUD or its designee within the thirty (30) day period that additional time is necessary.

(d) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs B.1.(ii)(b) or (c) of this Article, shall be paid to all workers performing work in the classification under this Contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the Contract for a class of laborers or mechanics includes a fringe benefit that is not expressed as an hourly rate, the Contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, *Provided*, That the Secretary of Labor has found, upon the written request of the Contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

2. Withholding. HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the Contractor under this Contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees and helpers, employed by the Contractor or any subcontractor the full amount of wages required by the Contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the Project), all or part of the wages required by the Contract, HUD or its designee may, after written notice to the Contractor, sponsor, applicant, or Owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the Contractor, disburse such amounts withheld for and on account of the Contractor or subcontractor to the respective employees to whom they are due.

3. Payrolls, records, and certifications.

(i) Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the Project). Such records shall contain the name, address, and social security number of each such worker, his or her correct

classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section 1 (b)(2)(B) of the Davis-Bacon Act (40 U.S.C. 3141(2)(B)(ii))), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1 (b)(2)(B) of the Davis-Bacon Act (40 U.S.C. 3141(2)(B)(ii)), the Contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(a) The Contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to HUD or its designee if the agency is a party to the Contract, but if the agency is not such a party, the Contractor shall submit the payrolls to the applicant, sponsor, or Owner, as the case may be, for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired, whether paper (Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/whd/forms/wh347.pdf> or its successor site), or electronically pursuant to Program Obligations. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to HUD or its designee if the agency is a party to the Contract, but if the agency is not such a party, the Contractor will submit the payrolls to the applicant sponsor, or Owner, as the case may be, for transmission to HUD or its designee, the Contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this subparagraph for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to HUD or its designee.

(b) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the Contractor or subcontractor or his or her agent who pays or

supervises the payment of the persons employed under the Contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under 29 CFR 5.5(a)(3)(ii), the appropriate information is being maintained under 29 CFR 5.5(a)(3)(i), and that such information is correct and complete.

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the Contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR Part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the Contract.

(c) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by subparagraph B.3.(ii)(b) of this Article.

(d) The falsification of any of the above certifications may subject the Contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Sections 3801 et seq of Title 31 of the United States Code.

(iii) The Contractor or subcontractor shall make the records required under subparagraph B.3.(i) of this Article available for inspection, copying, or transcription by authorized representatives of HUD or its designee or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the Contractor or subcontractor fails to submit the required records or to make them available, HUD or its designee may, after written notice to the Contractor, sponsor, applicant, or Owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and Trainees.

(i) **Apprentices.** Apprentices shall be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship, or with a State Apprenticeship Agency recognized by such Office, or if a person is employed in his or her first ninety (90) days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the

program, but who has been certified by the Office of Apprenticeship, or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the Contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where the Contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship, or a State Apprenticeship Agency recognized by such Office, withdraws approval of an apprenticeship program, the Contractor shall no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) **Trainees.** Except as provided in 29 CFR 5.16, trainees shall not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman's hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on

the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Contractor shall no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) **Equal employment opportunity.** The utilization of apprentices, trainees and journeymen under 29 CFR Part 5 shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

5. Compliance with Copeland Act Requirements. The Contractor shall comply with the requirements of 29 CFR Part 3, which are incorporated by reference in this Contract.

6. Subcontracts. The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in subparagraphs 1 through 10 of this paragraph B and such other clauses as HUD or its designee may by appropriate instructions require, and a copy of the applicable prevailing wage determination, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all Contract clauses referenced in this subparagraph.

7. Contract termination and debarment. A breach of the Contract clauses in 29 CFR 5.5 may be grounds for termination of the Contract, and for debarment as a contractor or a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act Requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this Contract.

9. Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this Contract shall not be subject to the general disputes clause of this Contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the Contractor (or any of its subcontractors) and HUD or its designee, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of Eligibility.

(i) By entering into this Contract, the Contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the Contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of Section 3(a) of the Davis-Bacon Act (40 U.S.C. 3144(b)(2)) or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(ii) No part of this Contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the Davis-Bacon Act (40 U.S.C. 3144(b)(2)) or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001. Additionally, U.S. Criminal Code, Section 1010, Title 18, U.S.C., "Federal Housing Administration transactions", provides in part: "Whoever, for the purpose of . . . influencing in any way the action of such Department . . . makes, passes, utters or publishes any statement, knowing the same to be false . . . shall be fined under this title or imprisoned not more than two years, or both."

C. Contract Work Hours and Safety Standards Act.

1. Applicability and Definitions. This paragraph C of Article 1 is applicable only if a direct form of federal assistance is involved, such as Section 8, Section 202/811 Capital Advance, grants etc., and is applicable only where the prime contract is in an amount greater than \$100,000. As used in this paragraph C, the terms "laborers" and "mechanics" include watchmen and guards.

2. Overtime requirements. No contractor or subcontractor contracting for any part of the Contract work that may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty (40) hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty (40) hours in such workweek.

3. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the immediately preceding subparagraph C.2, the Contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, the Contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory) for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of such subparagraph, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty (40) hours without payment of the overtime wages required by the clause set forth in such subparagraph.

4. Withholding for unpaid wages and liquidated damages. HUD or its designee shall, upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from any moneys payable on account of work performed by the Contractor or subcontractor under any such contract, or under any other Federal contract with the same prime contractor, or under any other Federally-assisted contract subject to the Contract Work

Hours and Safety Standards Act which is held by the same prime contractor such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph 3 of this paragraph C.

5. **Subcontracts.** The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in subparagraphs 1 through 5 of this paragraph C and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in such subparagraphs 1 through 5.

D. Certification.

For projects with Security Instruments insured under the National Housing Act, as amended, that are subject to paragraph B of this Article 1, the Contractor is required to execute the Contractor's Prevailing Wage Certificate within HUD-92448 as a condition precedent to insurance by HUD of the Loan, or an advance thereof, made or to be made by the Lender in connection with the construction of the Project.

Article 2: Equal Employment Opportunity

A. **Applicability.** This Article 2 applies to any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee.

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

C. The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor state that all qualified applicants shall receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, disability, or national origin.

D. The Contractor shall send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding a

notice to be provided advising the said labor union or workers representatives of the Contractor's commitments hereunder, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

E. The Contractor shall comply with all provisions of Executive Order 11246 of September 24, 1965 and of the rules, regulations, and relevant orders of the Secretary of Labor.

F. The Contractor shall furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and shall permit access to its books, records, and accounts by the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

G. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this Contract or with any of the said rules, regulations, or orders, this Contract may be canceled, terminated, or suspended in whole or in part and Contractor may be declared ineligible for further government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulations or order of the Secretary of Labor, or as otherwise provided by law.

H. The Contractor shall include the provisions of paragraphs A through H of this Article 2 in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions shall be binding upon each subcontractor or vendor. The Contractor shall take such action with respect to any subcontract or purchase order as HUD or the Secretary of Labor may direct as a means of enforcing such provisions, including sanctions for noncompliance. *Provided, however*, that in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by HUD or the Secretary of Labor, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

Article 3: Equal Opportunity for Businesses and Lower Income Persons Located Within the Project Area

A. This Article 3 is applicable to projects covered by Section 3, as defined in 24 CFR Part 135.

B. The work to be performed under this Contract is on a project assisted under a program providing Federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given to low and very-low income residents of the unit of local government or the metropolitan area (or non-metropolitan county) as determined by HUD in which the Project is located and contracts for work in connection with the Project be awarded to business concerns which are located in, or owned in substantial part by persons residing in the same metropolitan area (or non-metropolitan county) as the Project.

Article 4: Health and Safety

A. This Article 4 is applicable only where the prime contract is in an amount greater than \$100,000.

B. No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his or her health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.

C. The Contractor shall comply with all regulations issued by the Secretary of Labor pursuant to 29 CFR Part 1926, and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act, 40 USC 3701, et seq.

D. The Contractor shall include the provisions of this Article 4 in every subcontract so that such provisions shall be binding on each subcontractor. The Contractor shall take such action with respect to any subcontract as HUD or the Secretary of Labor shall direct as a means of enforcing such provisions.



Huntsville Housing Authority - P.O. Box 486 35804-0486 - 200 Washington Street Huntsville, Alabama 35801 - O: (256) 532-5624 C: (256) 759-0295 - www.HUNTSVILLEHOUSING.ORG

SECTION 3 POLICY, PROCEDURES AND COMPLIANCE FORMS WITH INSTRUCTIONS

This packet is designed to comply with the New HUD Section 3 Final Rule issued September 29, 2020, and became effective November 30, 2020. Therefore, these documents and instructions are related to the "Hours Worked Benchmarks" as called for in the 24 CFR Part 75 regulation.

Every contractor and sub-contractor (with the exception of professional services) are required to work toward meeting the prescribed benchmarks as indicated on the bottom of page 6 of this packet. There are no specific hiring or contracting goals under this new rule.

Most importantly, the rule does not require the hiring or contracting of any person or business that is not fully qualified to perform the work as would be charged. However, the rule makes clear that HUD is intent on ensuring Section 3 persons employed under the new rule receive measurable and sustainable employment. Therefore, Section 3 employees can be counted for up to five full years from the date of certification or hire respectively. HUD is expected to issue continued guidance on the new rule in the future so these documents may change in accordance with the rule.

If you should have any questions on this packet, please contact:

Lindsay Pollard
Section 3 Coordinator/Workforce Development
lpollard@hsvha.org

Prepared: May 9, 2021

Governing Parts of the Section 3 Final Rule to this Recipient

Subpart A—General Provisions

- § 75.1 Purpose
- § 75.3 Applicability
- § 75.5 Definitions

Subpart B—Additional Provisions for Public Housing Financial Assistance

75.9 Requirements.

75.11 Targeted Section 3 worker for public housing financial assistance. 75.13 Section 3 safe harbor.

75.15 Reporting.

75.17 Contract provisions.

Subpart D—Provisions for Multiple Funding Sources, Recordkeeping and Compliance

75.29 Multiple funding sources. 75.31 Recordkeeping

75.33 Compliance

SECTION 3 REQUIREMENTS

Applicable to all contracts and agreements regardless of the dollar amount or contract duration

Background - Section 3 of the Housing and Urban Development Act of 1968 (Public Law 90-448, approved August 1, 1968) (Section 3) was enacted to bring economic opportunities generated by certain HUD financial assistance expenditures, to the greatest extent feasible, to low- and very low-income persons residing in communities where the financial assistance is expended. Section 3 recognizes that HUD funds are often one of the largest sources of Federal funds expended in low- and very low-income communities and, where such funds are spent on activities such as construction and rehabilitation of housing and other public facilities, the expenditure results in economic opportunities. By directing HUD-funded economic opportunities to residents and businesses in the community where the funds are expended, the expenditure can have the dual benefit of creating new or rehabilitated housing and other facilities while providing opportunities for employment and training for the residents of these communities.

The Section 3 statute establishes priorities for employment and contracting for public housing programs and for other programs that provide housing and community development assistance. For example, the prioritization as it relates to public housing assistance places an emphasis on public housing residents, in contrast to the prioritization as it relates to housing and community development assistance, which places more emphasis on residents of the neighborhood or service area in which the investment is being made.

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Huntsville Housing Authority Internal Hiring Procedure

The state of Alabama has a restriction on the use of prior salary or compensation information and the requesting of such information relating to employment. That law is referenced below and that language may cause or create a conflict with the requirements of Section 3 to certify that a person hired is actually Section 3, what category of Section 3 they are, or are not Section 3 at all. The Benchmarks (referenced on page 8 below) will be very difficult, if not impossible, to attain if the prior salary information is not available in all cases. Certainly, a more unreasonable burden will be placed upon this HUD funds recipient as a direct result of this state law. So, to the extent where it is deemed unlawful for the Huntsville Housing Authority or its contractors to qualify a person for employment, training, or contracting because their prior employment salary history cannot be learned or considered for certification, the overall agency compliance will be less than prescribed by the HUD benchmarks. Only if the new employees' new annualized income meets the 80% low-income threshold for being considered Section 3, will any compliance be requested of new hires, trainees, or contractors.

HB225 - This act shall be known as the Clarke-Figures Equal Pay Act.

ENROLLED, An Act, Relating to wages; to prohibit an employer from paying any of its employees at wage rates less than those paid to employees of another sex or race for equal work unless a wage differential is based upon one or more specified factors. BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

(b) An employer shall not refuse to interview, hire, promote, or employ an applicant for employment, or retaliate against an applicant for employment because the applicant does not provide wage history. Wage history means the wages paid to an applicant for employment by the applicant's current or former employer.

Read the full Act: <http://alisondb.legislature.state.al.us/ALISON/SearchableInstruments/2019RS/PrintFiles/HB225-enr.pdf>

Huntsville Housing Authority Contracting Procedure

For all advertised contracts let by the authority, the responsible staff will include the Section 3 Business Self Certification form and the Section 3 Individual Low-Income Self Certification form (with no income limit area) with the bid package (virtually and paper) allowing each respondent to identify themselves and their business accordingly. The completion of the forms will remain voluntary and at the respondents' discretion.

Once all responses have been received and reviewed, the most desirous and qualified business will be progressed through the contracting process. The Section 3 status of the respondent will be considered only after the "Most Qualified and Advantageous" respondent has been determined. Please note that due to that conflict with Alabama State Law HB225 - This act shall be known as the Clarke-Figures Equal Pay Act, there will be an area for contractors to confirm they meet any HUD income limit for Section 3 business owners for persons working for Section 3 business owners. So again, meeting the Section 3 Business Concern definition will be difficult to impossible, though we still encourage contractors to recruit, train, and hire as many HHA residents and voucher holders as possible. At a minimum, contractors should provide notice to the Section 3 coordinator so some outreach can be executed for any created or available employment opportunities.

If there are multiple and equally qualified businesses, the Section 3 status and category of the business will be considered. The business with the highest Section 3 priority, based on the 24CFR Part 75.9 (b)(2) will be awarded the contract. All other applicable procurement laws will be adhered to relative to contracting amounts. All advertisements for contracts with the authority will carry this wording: "This opportunity is covered under Section 3 of the HUD Act of 1968"

Huntsville Housing Authority Internal Resident Training Procedure

For all resident training offered by the authority and its contractors, the staff will include the Section 3 Individual Low-Income Person Self Certification form with the training notice or, upon the first day of training (virtually and paper), allowing each prospective trainee to identify themselves accordingly as public housing or Section 8. The completion of the form will NOT be voluntary as the prospective trainees will be allowed to attend based on their prioritization in the 24CFR Part 75.9(a)(2).

If the training is being paid for with HUD Public Housing financial assistance, the training will be limited to authority residents and potentially voucher holders only.

All advertisements for training with the authority will carry this wording: "This opportunity is covered under Section 3 of the HUD Act of 1968."

§ 75.1 Purpose

This part establishes the requirements to be followed to ensure the objectives of Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) (Section 3) are met. The purpose of Section 3 is to ensure that economic opportunities, most importantly employment, generated by certain HUD financial assistance shall be directed to low- and very low-income persons, particularly those who are recipients of government assistance for housing or residents of the community in which the Federal assistance is spent.

§ 75.3 Applicability.

(a) General applicability. Section 3 applies to public housing financial assistance and Section 3 projects, as follows:

(1) Public housing financial assistance. Public housing financial assistance means:

(i) Development assistance provided pursuant to section 5 of the United States Housing Act of 1937 (the 1937 Act);

(ii) Operations and management assistance provided pursuant to section 9(e) of the 1937 Act;

(iv) The entirety of a mixed-finance development project as described in 24 CFR 905.604, regardless of whether the project is fully or partially assisted with public housing financial assistance as defined in paragraphs (a)(1)(i) through (iii) of this section.

(iii) The requirements in this part apply to an entire Section 3 project, regardless of whether the project is fully or partially assisted under HUD programs that provide housing and community development financial assistance.

(b) Contracts for materials. Section 3 requirements do not apply to material supply contracts.

(d) Other HUD assistance and other Federal assistance. Recipients that are not subject to Section 3 are encouraged to consider ways to support the purpose of Section 3.

§ 75.5 Definitions.

The terms HUD, Public housing, Public Housing Agency (PHA), and are defined in 24 CFR part 5. The also apply to this part: 1937 Act means the United States Housing Act of 1937, 42 U.S.C. 1437 et seq. Contractor means any entity entering into a contract with:

- (1) 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
- (2) A subrecipient for work in connection with a Section 3 project.

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.

Low-income person means a person as defined in Section 3(b)(2) of the 1937 Act.

Material supply contracts means contracts for the purchase of products and materials, including, but not limited to, lumber, drywall, wiring, concrete, pipes, toilets, sinks, carpets, and office supplies.

Professional services means 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.

Public housing financial assistance means assistance as defined in § 75.3(a)(1).

Public housing project is defined in 24 CFR 905.108.

Recipient means any entity that receives directly from HUD public housing financial assistance or housing and community development assistance that funds Section 3 projects, including, but not limited to, any State, local government, instrumentality, PHA, or other public agency, public or private nonprofit organization.

Section 3 means Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u).

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;
 - (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.

Public housing project

Section 3 project means a project defined in § 75.3(a)(2).

- (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.

Section 3 worker means:

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.

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

Service Area or the Neighborhood of the project This definition

Small PHA means a public housing authority that manages or operates fewer than 250 public housing units.

Subcontractor means any entity that has a contract with a contractor to undertake a portion of the contractor's obligation to perform work in connection with the expenditure of public housing financial assistance or for a Section 3 project.

Sub-recipient has the meaning provided in the applicable program regulations or in 2 CFR 200.93.

Targeted Section 3 worker has the meanings provided in § 75.11, 75.21, or 75.29, and does not exclude an individual that has a prior arrest or conviction.

Very low-income person means the definition for this term set forth in section 3(b)(2) of the 1937 Act.

YouthBuild programs refers to YouthBuild programs receiving assistance under the Workforce Innovation and Opportunity Act (29 U.S.C. 3226).

[Continues Next Page](#)

§ 75.9 Requirements - (a) Employment and Training.

(1) Consistent with existing Federal, state, and local laws and regulations, PHAs or other recipients receiving public housing financial assistance, and their contractors and subcontractors, must make their best efforts to provide employment and training opportunities generated by the public housing financial assistance to Section 3 workers.

(2) PHAs or other recipients, and their 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 metropolitan area (or nonmetropolitan county) in which the assistance is expended.

(b) Contracting. (1) Consistent with existing Federal, state, and local laws and regulations, PHAs and other recipients of public housing financial assistance, and their 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) PHAs and other recipients, and their 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 metropolitan area (or nonmetropolitan county) in which the assistance is provided.

§ 75.11 Targeted Section 3 worker for Public Housing Financial Assistance.

(a) Targeted Section 3 worker. A Targeted Section 3 worker for public housing financial assistance 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 public housing 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.

§ 75.13 Section 3 Safe Harbor. *(See Benchmarks at the bottom of page 10)*

(a) General. 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 in § 75.9; and

(2) Meet or exceed the applicable Section 3 benchmark as described in paragraph (b) of this section.

§ 75.15 Reporting. *(See Benchmarks at the bottom of page 10)*

(a) Reporting of labor hours. (1) For public housing financial assistance, PHAs and other recipients must report in a manner prescribed by HUD:

- (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) 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 pursuant to § 75.31.

(3) The labor hours reported under paragraph (a)(1) of this section must include the total number of labor hours worked with public housing financial assistance in the fiscal year of the PHA or other recipient, including labor hours worked by any contractors and subcontractors that the PHA or other recipient is required, or elects pursuant to paragraph (a)(4) of this section, to report.

(4) PHAs and other recipients reporting under this section, as well as contractors and subcontractors who report to PHAs and recipients, may report labor hours by Section 3 workers, under paragraph (a)(1)(ii) of this section, and labor hours by Targeted Section 3 workers, under paragraph (a)(1)(iii) of this section, from professional services without including labor hours from professional services in the total number of labor hours worked under paragraph (a)(1)(i) of this section. If a contract covers both professional services and other work and the PHA, other recipient, contractor, or subcontractor chooses not to report labor hours from professional services, the labor hours under the contract that are not from professional services must still be reported.

(5) PHAs and other recipients may report on the labor hours of the PHA, the recipient, a contractor, or a subcontractor 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, unless the project or activity is otherwise subject to requirements specifying time and attendance reporting.

(b) Additional reporting if Section 3 benchmarks are not met.

If the PHA's or other recipient's reporting under paragraph (a) of this section indicates that the PHA or other recipient has not met the Section 3 benchmarks described in § 75.13, the PHA or other recipient must report in a form prescribed by HUD on the qualitative nature of its Section 3 compliance activities and those of its contractors and subcontractors. Such qualitative efforts may, for example, include but are not limited to the following:

- (1) Engaged in outreach efforts to generate job applicants who are Targeted Section 3 workers.
- (2) Provided training or apprenticeship opportunities.
- (3) Provided technical assistance to help Section 3 workers compete for jobs (e.g., resume assistance, coaching).
- (4) Provided or connected Section 3 workers with assistance in seeking employment including: drafting resumes, preparing for interviews, and finding job opportunities connecting residents to job placement services.
- (5) Held one or more job fairs.
- (6) Provided or referred Section 3 workers to services supporting work readiness and retention (e.g., work readiness activities, interview clothing, test fees, transportation, child care).
- (7) Provided assistance to apply for/attend community college, a four-year educational institution, or vocational/technical training.
- (8) Assisted Section 3 workers to obtain financial literacy training and/or coaching.
- (9) Engaged in outreach efforts to identify and secure bids from Section 3 business concerns.
- (10) Provided technical assistance to help Section 3 business concerns understand and bid on contracts.
- (11) Divided contracts into smaller jobs to facilitate participation by Section 3 business concerns.
- (12) Provided bonding assistance, guaranties, or other efforts to support viable bids from Section 3 business concerns.
- (13) Promoted use of business registries designed to create opportunities for disadvantaged and small businesses.

§ 75.15 Continued - (b) Additional reporting if Section 3 benchmarks are not met.

(14) Outreach, engagement, or referrals with the state one-stop system as defined in Section 121(e)(2) of the Workforce Innovation and Opportunity Act.

(c) Reporting frequency. Unless otherwise provided, PHAs or other recipients must report annually to HUD under paragraph (a) of this section, and, where required, under paragraph (b) of this section, in a manner consistent with reporting requirements for the applicable HUD program.

(d) Reporting by Small PHAs. Small PHAs may elect not to report under paragraph (a) of this section. Small PHAs that make such election are required to report on their qualitative efforts, as described in paragraph (b) of this section, in a manner consistent with reporting requirements for the applicable HUD program.

§ 75.17 Contract provisions.

(a) PHAs or other recipients must include language in any agreement or contract to apply Section 3 to contractors.

(b) PHAs or other recipients must require contractors to include language in any contract or agreement to apply Section 3 to subcontractors.

(c) PHAs or other recipients must require all contractors and subcontractors to meet the requirements of § 75.9, regardless of whether Section 3 language is included in contracts.

§ 75.29 Multiple Funding Sources.

(a) If a housing rehabilitation, housing construction or other public construction project is subject to Section 3 pursuant to § 75.3(a)(1) and (2), the recipient must follow subpart B of this part for the public housing financial assistance and may follow either subpart B or C of this part for the housing and community development financial assistance. For such a project, the following applies:

(2) The recipients of both sources of funding shall report on the housing rehabilitation, housing construction, or other public construction project as a whole and shall identify the multiple associated recipients. PHAs and other recipients must report the following information:

(i) The total number of labor hours worked on the project;

(ii) The total number of labor hours worked by Section 3 workers on the project; and

(iii) The total number of labor hours worked by Targeted Section 3 workers on the project.

[Continues Next Page](#)

§ 75.31 Recordkeeping.

(b) Recipients must maintain documentation, or ensure that a subrecipient, contractor, or subcontractor that employs the worker maintains documentation, to ensure that workers meet the definition of a Section 3 worker or Targeted Section 3 worker, at the time of hire or the first reporting period, as follows:

(1) For a worker to qualify as a Section 3 worker, one of the following must be maintained:

- (i) A worker's self-certification that their income is below the income limit from the prior calendar year;
- (ii) A worker's self-certification of participation in a means-tested program such as public housing or Section 8-assisted housing;
- (iii) Certification from a PHA, or the owner or property manager of project-based Section 8-assisted housing, or the administrator of tenant-based Section 8-assisted housing that the worker is a participant in one of their programs;
- (iv) An employer's certification that the worker's income from that employer is below the income limit when based on an employer's calculation of what the worker's wage rate would translate to if annualized on a full-time basis; or
- (v) An employer's certification that the worker is employed by a Section 3 business concern.

(2) For a worker to qualify as a Targeted Section 3 worker, one of the following must be maintained:

(i) For a worker to qualify as a Targeted Section 3 worker under subpart B of this part:

- (A) A worker's self-certification of participation in public housing or Section 8-assisted housing programs;
- (B) Certification from a PHA, or the owner or property manager of project-based Section 8-assisted housing, or the administrator of tenant-based Section 8-assisted housing that the worker is a participant in one of their programs;
- (C) An employer's certification that the worker is employed by a Section 3 business concern; or
- (D) A worker's certification that the worker is a YouthBuild participant.

Benchmarks - For Section 3 projects, the proposed benchmark notification set the same benchmarks but with regards to the project itself rather than the recipient's fiscal year. The proposed benchmark notification provided that recipients would meet the safe harbor in the new § 75.13 by certifying to the prioritization of effort in the new § 75.9 and meeting or exceeding Section 3 benchmarks for total number of labor hours worked by Section 3 workers and by Targeted Section 3 workers. The benchmark for Section 3 workers was set at 25 percent or more of the total number of labor hours worked by all workers on a Section 3 project. The benchmark for Targeted Section 3 workers was set at 5 percent or more of the total number of labor hours worked by all workers on a Section 3 project. **Simply stated, the contract needs to meet these two benchmarks in order to be in compliance.**

$$\frac{\text{Section 3 Workers Labor Hours}}{\text{Total Labor Hours for the Project}} = 25\%$$

$$\frac{\text{Section 3 Targeted Workers Labor Hours}}{\text{Total Labor Hours for the Project}} = 5\%$$

SECTION 3 BUSINESS SELF-CERTIFICATION FORM

(In compliance with Section 3 of the HUD Act of 1968 Updated 24 CFR Part 75 11/30/2020)

The purpose of this form is to comply with Section 3 of the HUD Act of 1968 Business Certification requirements. To count as a Section 3 Business your company/firm must meet one of the listed categories below. Each category will require additional documentation to support the election. You must provide that supporting documentation with this form to be properly and completely confirmed as a Section 3 business. If this form is submitted without the required supplemental data, your certification will not be processed.

Section 3 Business Category	Additional Required Data	Mark an "X" on Your Election
It is at least 51 percent owned by low- or very low-income persons;	Proof of ownership showing all owners and their percentages and a completed Section 3 Individual Self-Certification form for all low- and very low-income owners	
Over 75 percent of the labor hours performed for the business are performed by low- or very low-income persons; or	Provide the last 90 days full payrolls for the entire company, make a list of the names from the payrolls of the Section 3 workers, and provide a completed Section 3 Individual Self-Certification for all low- and very low-income workers you list	
It is a business at least 51 percent owned by current public housing residents or residents who currently live in Section 8-assisted housing.	Proof of ownership showing all owners and their percentages and a Section 3 Individual Self-Certification form for all public housing and/or Section 8 owners	

I hereby certify to the US Department of Housing and Urban Development (HUD) that all of the information on this form is true and correct. I attest under penalty of perjury that my business meets the elected definition and understand proof of this information may be requested. If found to be inaccurate, I understand that I may be disqualified as a certified Section 3 business

Signature:		Date Signed:
Print Name:	Title:	
Company Name:	Signers Email:	
Address		
Telephone Number		
Type of Business: (Check One): <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Sole Proprietorship <input type="checkbox"/> Other		

SECTION 3 INDIVIDUAL LOW-INCOME PERSON SELF-CERTIFICATION FORM

(In compliance with Section 3 of the HUD Act of 1968 Updated 24 CFR Part 75 11/30/2020)

The purpose of this form is to comply with Section 3 of the HUD Act of 1968 self-certification income requirements. To count as a Section 3 individual, any legal resident of the United States annual income must not exceed the HUD income limits for the year before they were hired, or, the individuals current year income annualized for the year you are being confirmed as low-income.

Printed Name: _____

Street Address (Not a PO Box) Apt# City State Zip

Phone #: _____ Email: _____

To qualify as a Section 3 Person, you must meet one of the standards on the left side box and your income not exceed the number in the right side box below.

Check only one line below that describes your housing situation:
___ I am a Public Housing Resident or Section 8 Assists me with my rent, or I am a current YouthBuild participant
___ I receive No HUD support, but I am low-income and live in the City of Huntsville, Madison County including a 10 mile overlap into Limestone County

I hereby certify to the US Department of Housing and Urban Development (HUD) that all of the information on this form is true and correct. I attest under penalty of perjury that my total income is as shown above, and that proof of this information may be requested. If found to be inaccurate, I understand that I may be disqualified as an applicant and/or a certified Section 3 individual. Finally, I authorize including my name on a list of Section 3 Residents seeking employment and to include my contact information so that contractors may contact me directly for any employment opportunities.

Signature

Date

HUNTSVILLE HOUSING AUTHORITY SECTION 3 HOURS WORKED REPORTING FORM

(In compliance with Section 3 of the HUD Act of 1968 Updated 24 CFR Part 75 11/30/2020)

The purpose of this form is to comply with Section 3 of the HUD Act of 1968 tracking of hours worked by all person's employed by your company on the _____ contract including those meeting the Section 3 income requirements as low- or very low-income. To count as a Section 3 individual, any legal resident of the United States annual income must not exceed the HUD income limits for the year before they were hired, or, the individuals current year income annualized for the year you are confirming they are low-income. If your company employs any person you believe is low income now or was when they were hired within the past five years, please have them complete the "SECTION 3 INDIVIDUAL LOW-INCOME PERSON SELF-CERTIFICATION FORM" and return it to the GC immediately. Please keep in mind the objective and the HUD benchmark requirements for this project are:

- 25% of the total labor hours worked by everyone employed under the project must be worked by Section 3 Workers (Defined as the low and very low-income people in your project service area)

And

- 5% of the total labor hours worked by everyone employed under the project must be worked by TargetedSection 3 Workers (Defined as Public Housing and Section 8 Assisted persons in your project service area)

Therefore, we are interested in identifying as many people Section 3 workers as possible that will allow us to count their hours toward the benchmarks. However, all hours worked by everyone on the project must be reported monthly to:

Lindsay Pollard
Section 3 Coordinator/Workforce Development
lpollard@hsvha.org or O: (256) 532-5624 C: (256) 759-0295

Official Hours Worked for the Period of _____ 2021 - _____ 2021

Total Hours Worked by all Non-Section 3 staff _____

Total Hours Worked by All Section 3 staff Targeted and Non-Targeted _____

Please list the names and hours worked by each Section 3 Worker individually below or on a separate sheet.

First Name	Last Name	Total Hours This Period Only
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____