



Invitation For Bid
PEST CONTROL SERVICES
IFB NO. 04-2023

SAN BENITO HOUSING AUTHORITY
1400 N. Reagan Street
San Benito, TX 78586

Bids Due: November 27, 2023
3:00 p.m. CST



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**INVITATION TO BID
Pest Control Services
San Benito Housing Authority**

The San Benito Housing Authority is accepting bids for Pest Control Services. Bid specifications may be picked up at the main office. Bids submitted in accordance with solicitation guidelines will be received by the Housing Authority until **3:00 p.m. (CST) Monday, November 27, 2023**, at the office of San Benito Housing Authority, 1400 N. Reagan St., San Benito, TX 78586 and publicly opened and read. **Bids shall be sealed and properly identified as:**

**Pest Control Services
IFB 04-2023**

No verbal, faxed, or emailed bids will be accepted. Late bids will not be considered. The Pest Control bid will be awarded by the San Benito Housing Board of Commission. San Benito Authority reserves the right to accept or reject any or all proposals, to waive any formalities, and to accept the proposal most advantageous to San Benito Housing Authority.

For more information, contact Janet A. Montalvo, Finance Director at (956)399-7501; or via email at info@sanbenitohousing.com

San Benito Housing Authority is an Equal Opportunity Employer.

INTRODUCTION

The San Benito Housing Authority (hereinafter, “HA”) is a public entity that was formed in 1947 to provide federally subsidized housing and housing assistance to low-income families, within the boundaries of the City of San Benito. The HA is headed by an Executive Director (ED) and is governed by a five-person board of commissioners and is subject to the requirements of Title 24 of the Code of Federal Regulations (hereinafter, “CFR”) and the HA’s procurement policy. Though brought into existence by a Resolution of the City of San Benito, it is a separate entity from the City of San Benito.

Currently, the HA owns and/or manages: (a) multi-family apartment complexes totaling 117 units; (b) two mixed-income apartment complexes, totaling 134 units and (c) administers a total of 368 Section 8 Housing Choice Vouchers. The HA currently has 21 employees.

In keeping with its mandate to provide efficient and effective services, the HA is seeking quotes to provide Pest Control Services for all rental properties and administrative offices owned and operated by the SBHA. All quotes submitted in response to this solicitation must conform to all the requirements and specifications outlined within this document and any designated attachments in its entirety.

PROCEDURE: The HA will accept the proposed pricing in person, by fax, or by mail delivery only! The HA will NOT accept proposed pricing verbally or by telephone! Bids must also submit proposed pricing where provided on the last page of this form.

HA CONTACT: All questions pertaining to this IFB shall be addressed to Janet A Montalvo, Finance Director, Telephone: 956-232-2121; e-mail: info@sanbenitohousing.com.

1.0 APPLICABILITY: By submitting a quote to the HA, the firm or individual doing so (hereinafter, "the quoter") is automatically agreeing to abide by all terms and conditions listed herein, including those terms and conditions within the HUD document, *General Conditions for Non-Construction Contracts*.

2.0 HA RESERVATION OF RIGHTS: The HA reserves the right to:

- 2.1 Reject any or all quotes, to waive any informalities in the IFB process, or to terminate the IFB process at any time, if deemed by the HA to be in the best interest of the HA.
- 2.2 Terminate a contract awarded pursuant to this IFB at any time for its convenience upon delivery of a 10-day written notice to the apparent or successful quoter.
- 2.3 Determine the days, hours, and locations that the successful quoter shall provide the items or services called for in this IFB.
- 2.4 Reject and not consider any quote that does not, in the opinion of the HA, meet the requirements of this IFB, including but not necessarily limited to incomplete quotes offering alternate (not including "or equal" items) or non-requested items or services.

3.0 QUOTER'S RESPONSIBILITY: Each quoter must carefully review and comply with all instructions provided herein, provided within any named attachments and those provided within the noted Internet system.

4.0 DEADLINE: Each quoter shall submit his/her proposed costs, prior to the posted deadline, as provided for herein. Whereas this is an informal solicitation process, the HA reserves the right to extend the posted deadline at any time prior to the deadline, if, in the opinion of the HA, it is in the best interests of the HA to do so.

Bid Submittal Due Date

Sealed bids must be mailed, or hand delivered to **San Benito Housing Authority, 1400 N. Reagan Street, San Benito, TX 78586** and received no later than **Monday, November 27, 2023, by 3:00 p.m. CST**. All bids must be submitted using the attached forms and received in a sealed envelope marked "**Pest Control Bid.**"

The attached forms must be signed by the quoter and filled out in their entirety. Any Quote received at the place designated in the solicitation after the exact time specified for receipt will not be considered.

Quote Acceptance Period

The HA shall have a period of 10 calendar days following the quote opening date to make the award. No quotes may be withdrawn during this acceptance period, without the permission of the HA.

- 5.0 HOLD PRICES/NON-ESCALATION:** By submitting a bid, and whereas the bid sum submitted is a firm-fixed quote, each quoter thereby agrees to "hold" or not increase the proposed quote prices during the term of the work.
- 6.0 PURCHASE ORDER (PO):** The HA will procure the applicable goods or services by issuance of a PO and contract. PO's will be issued on an as-needed basis only. By submitting a bid, the successful bidder thereby agrees to confirm receipt of the PO in the manner directed by the HA.
- 7.0 AWARD CRITERIA:** If an award is completed pursuant to this IFB, and unless otherwise instructed in writing by the HA, award shall be made to the responsive and responsible quoter that submits the lowest cost.
- 8.0 INVALID OR ALTERNATE QUOTES:** Failure to complete and submit all required information, or to add any additional requirements not acceptable to the HA, may invalidate the bid submitted. Furthermore, the HA shall reserve the right to reject, without consideration, alternate quotes, meaning those that do not meet the requirements of this IFB.
- 9.0 QUOTE COSTS:** There shall be no obligation for the HA to compensate any bidder or prospective quoter for any costs that he/she may incur in responding to this IFB.
- 10.0 SHIPPING COSTS:** Each quoted sum submitted shall include completion of the specified services at the HA site or location, as specified within this IFB or on the PO issued.
- 11.0 ASSIGNMENT OF PERSONNEL:** The HA shall retain the right to demand and receive a change in personnel assigned by the successful bidder to provide services to the HA if the HA believes that such change is in the best interest of the HA and the completion of the work or provision of the items.
- 12.0 UNAUTHORIZED SUB-CONTRACTING PROHIBITED:** The successful bidder 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 ensuing PO or contract) without the prior written consent of the HA. Any purported assignment of interest or delegation of duty, without the prior written consent of the HA shall be void and may result in the cancellation of the PO or the contract with the HA.
- 13.0 LICENSING AND INSURANCE REQUIREMENTS: Prior to award (but not as a part of the quote submission) the *successful quoter* will be required to provide:**
1. Workman's Compensation Insurance in accordance with Texas Statutes.
 2. General Commercial Liability Insurance in the amount of \$1,000,000 with the HA to be additionally insured.
 3. Automobile Insurance: All vehicles used in the conduct of the work shall maintain collision and liability coverage.

4. A copy of the bidder's business license allowing that entity to provide such services within the jurisdiction of San Benito, TX.

Permits, Fees, and Notices

The contractor shall secure and pay for all permits, governmental fees, and licenses necessary for the proper execution of the work. The contractor shall give all notices and comply with all laws, regulations and orders of any public authority relating to the performance of the work. The contractor is required to notify the HA representative of the need for any permits.

14.0 CONFLICTS OF INTEREST

1. The contractor certifies by submission of a bid 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 under a proposed HA contract and a prospective contractor's organizational, financial contractual or other interests are such that:

- a. Award the contract may result in an unfair competitive advantage.
- b. The Contractor's objectivity in performing the contract work may be impaired.
- c. The Contractor has disclosed all relevant information and requested the HA to decide with respect to the contract.

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

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

15.0 CONTRACT PERIOD

The contract under this solicitation will be for one (1) year, beginning on or about January 01, 2024, and ending on or about December 31, 2024. The HA may at its discretion exercise its right for an option to renew for one (1) additional year.

16.0 TECHNICAL SPECIFICATION OR SCOPE OF WORK (SOW) that apply to this IFB:

The HA seeks bids from qualified (Texas licensed/certified) pest elimination/control companies to manage pest issues in its 251 rental units, one laundry facility and associated office spaces (6).

Pests Covered

The Contractor shall furnish all work, labor and materials (unless specifically excluded) for the management of rodents (rats and mice), crawling insects, i.e. cockroaches (all native species), ants (except carpenter and pharaoh ants), spiders, beetles, wasps, and other household pests, except termites, birds and nuisance animals from the buildings and grounds of the HA consisting of 251 living units, 1 laundry facility and their respective developments and management offices; a list of properties is attached in **Attachment B**.

Areas of Service

1. All Apartments, all rooms, (kitchen, bath, living and bedrooms, closets, laundry, and utility areas).
2. Behind kitchen appliances, such as refrigerators, and stoves.
3. Offices.
4. Community rooms.
5. Utility rooms.
6. Laundry rooms.
7. Storage areas.
8. Mechanical closets, rooms, and area.
9. Buildings and their perimeters (6 feet) including water heater closets; and
10. Other areas as requested by SBHA management

Service hours and days

Routine pest control services that do not adversely affect the tenants and staff health and activities shall be scheduled every second week of the month exclusive of HA recognized holidays.

Emergency Availability

The Contractor shall be available, on call, for “Emergency” hours (nights, weekends, holidays, and overtime) for an agreed upon fee. All additional charges shall be justified and approved by the HA in advance.

Products, Tools and Materials

- a) Prior to the commencement of work, the Contractor shall provide the HA with a list of all pesticide products (insecticides and rodenticides) to be used on HA properties, their labels, and Material Safety Data sheets.
- b) Only EPA approved products, registered in the State of Texas shall be used in accordance with label direction.
- c) The list shall be updated as needed by the Contractor.
- d) The HA may request additional products be added to the Contractor's list of products.
- e) The HA may reject or limit the use of specific products (i.e., “No Fogs”).

- f) The Contractor shall not store any products or equipment on HA's property unless prior approval is granted.
- g) Additional tools are expected to be available and used by the Contractor; these tools must include:
- Insect monitors, tamper-resistant rodent bait stations and traps.
 - Scrapers to remove accessible dead insects and rodents, cockroach droppings and old insecticide gels, etc.
 - HEPA vacuums and/or sweepers and to remove dead insects, their parts, rodent hairs, and droppings, etc. The contractor will be responsible for removal of insect carcasses, parts or other detritus associated with successful pest control.
 - Pesticide applications shall be according to need and not by schedule. As a general rule, the application of pesticides in any inside or outside area shall not occur unless visual inspection or monitoring devices indicate the presence of pests in that specific area. Requests for preventive treatments in areas where surveillance indicates a potential insect or rodent infestation shall be evaluated by the HA on a case-by-case basis. Written approval must be granted by the HA prior to any preventive pesticide application.
- h) If pesticide use is necessary, the Contractor shall employ the least hazardous material, most precise application technique, and minimum quantity of pesticide necessary to achieve control.

Service Methods

- a) The Contractor shall describe its' service methods, plans and procedures for:
1. Corrective action for insects and rodents.
 2. Preventive maintenance.
- b) The Contractor's personnel shall check-in prior to work and check-out with the manager or their designee at each site.

Vehicles

- a) All Contractor service vehicles shall be clearly lettered for ease of recognition.
- b) Vehicles shall be properly locked and secured at all times while on HA property.
- c) Contractor employees shall drive in a safe manner and adhere to the "Rules of the Road."
- d) Contractor employees shall park their vehicles safely, not to impede the safety of others and their vehicles and in accordance with the policies of the HA.
- e) All moving and parking violations, including towing services, shall be the responsibility of the Contractor and their employees.

Safety

- a) The contractor shall conduct its services in a safe and careful manner.
- b) The contractor shall abide by all laws, statutes, regulations, and directives issued by OSHA, EPA, and the State of Texas.
- c) The contractor shall provide safety equipment as required by OSHA, EPA, and specific product labels.

Pest Specific Measures

In situations requiring the use of any pesticides, label directions must be read, in advance, and followed. Prior approval by the HA is required unless described below.

A. Cockroaches

- 1) Application of insecticide sprays and aerosols are not permitted unless prior approval is given by the HA.
- 2) Insecticide gel baits are preferred such as but not limited to Matrix®, Advion®, Avert®, Max Force FC Select®, PreEmpt®, Transport®, etc.
- 3) Insecticide granular products may be used in mechanical areas; products such as but not limited to Whitmire Advance®, Entice®, Niban®.
- 4) Insecticide dusts, such as but not limited to boric acid, Drione®, Tempo®, Deltic®.
- 5) Insect growth regulators such as but not limited to Gentrol® (concentrate, aerosol and PointSource®)

B. Ants

- 1) Application of insecticide sprays and aerosols are not permitted unless prior approval is given by the HA.
- 2) After inspection and monitoring has verified the presence of and species of ant, limited treatments may be applied.
- 3) Ant specific gel baits and granular products.

C. Rodents

- 1) After inspection and monitoring has determined the presence and location of rodents,
- 2) Exclusion with copper gauze, steel wool, hardware cloth, expanding foams, cement patches, door sweeps, etc.
- 3) Traps inside shall be the product of choice; products such as but not limited to snap, glue, and curiosity, etc.

- 4) With prior HA approval on a case-by-case basis, rodenticide “tracking powders” may be applied into void areas, such as, but limited to, pipe chases, door frames, under fixed equipment (cabinets) and created by rodents. Products such as, but limited to, Rozo1®, Ditract®, etc. Requests to apply ZP (zinc phosphate) Tracking Powder® will receive special scrutiny prior to approval by the HA.
- 5) Outside rodent baits may be used in “tamper-resistant bait stations;” all stations shall be noted and kept current on maps indicating their location

The HA shall:

- a) Keep common and public areas, including outside grounds and support areas clean and accessible for pest control services.
- b) Communicate related housing policies, changes, expectations, and responsibilities.
- c) Assist with the distribution of service schedules, preparation notices; consumer bulletins, etc. d) Manage and enforce contract details.

Compensation

The contractor will not be paid for any units unable to be treated due to:

- a) failure to perform (see Scope of Services).
- b) failure to be properly prepared (ex. insufficient cockroach bait).
- c) failure to be properly equipped (ex. failure to have a HEPA vacuum).
- d) the HA shall compensate the Contractor for each apartment scheduled for service but not entered due to lack of keys, changed locks and other avoidable circumstances.
- e) the resident’s failure to properly prepare as instructed by the Contractor.
- f) failure to clean as instructed, prior to service.

Experience

Businesses

- a) The Contractor shall have been in business at least three (3) years.
- b) The Contractor shall provide references from at least three (3) similar work situations.
- c) The contractor shall furnish all supervision, labor, materials, and equipment necessary to accomplish the monitoring, trapping, pesticide application, and pest removal components.
- d) The contractor shall observe all safety precautions throughout the performance of this contract. All work shall be in strict accordance with all applicable federal, state, and local safety and health requirements. Where there is a conflict among parties, the HA will appoint an independent, knowledgeable party to mediate the dispute.
- e) Applicable regulations, the most stringent will apply.
- f) The contractor shall assume full responsibility and liability for compliance with all applicable

regulations pertaining to the health and safety of personnel and residents during the execution of work.

Personnel

- a) All pesticide applicators must have at least one (1) year of experience and be licensed by the State of Texas and at least one shall be a Certified pesticide applicator.
- b) The Contractor shall ensure that employee licenses and certifications are current and appropriately renewed each year.
- c) The Contractor shall be responsible for supervising all work performed.
- d) The Contractor shall provide the HA and maintain as current a list of these individuals along with copies of their state license or certification.

17.0 SUBMISSION OF FORMS

Bidder must submit the following or the bid will be deemed non-responsive and rejected.

- 1. Profile of Firm form – Attachment A
- 2. Bid Form – Attachment B
- 3. Non-Conclusive Affidavit – Attachment C
- 4. Section 3 Forms and Explanation – Attachment D
- 5. HUD 92010 form *Equal Employment Opportunity Certification* - Attachment E
- 6. List of References
- 7. Licenses, Certifications and Certificate of Insurance
- 8. List of products used

Invitation For Bid (IFB) 04-2023 Pest Control

PROFILE OF FIRM FORM
(IFB Attachment A)

(1) Prime ☐ Sub-contractor ☐ (This form must be completed by and for each).

(2) Name of Firm:

Telephone: _____

Fax: _____

Email: _____

(3) Street Address, City, State, Zip: _____

(4) Please attach a brief biography/resume of the company, including the following information: (a) Year Firm Established; (b) Year Firm Established in Texas; (c) Former Name and Year Established (if applicable); (d) Name of Parent Company and Date Acquired (if applicable).

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

[Table No. 1]

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):

[Table No. 2]

Name	Title

Signature

Date

Printed Name

Company

SAN BENITO HOUSING AUTHORITY

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PROFILE OF FIRM FORM
(IFB Attachment A)

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

5 Caucasian American (Male) _____ %	5 Public-Held Corporation _____ %	5 Government Agency _____ %	5 Non-Profit Organization _____ %
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Resident- (RBE), Minority- (MBE), or Woman-owned (WBE) Business Enterprise (Qualifies by virtue of 51% or more ownership and active management by one or more of the following):

5 Resident- Owned* _____ %	5 African American _____ %	5 Native American _____ %	5 Hispanic American _____ %	5 Asian/Pacific American _____ %	5 Hasidic Jew _____ %	5 Asian/Indian American _____ %
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5 Woman-Owned (MBE) _____ %	5 Woman-Owned (Caucasian) _____ %	5 Disabled Veteran _____ %	5 Other (Specify): _____ %
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WMBE Certification Number:

Certified by (Agency):

(NOTE: A CERTIFICATION/NUMBER IS NOT REQUIRED TO PROPOSE - ENTER IF AVAILABLE)

(8) Federal Tax ID No.:

(9) Local Business License No. (if applicable):

(10) State of Georgia License Type and No.:

(11) Federal License Type and No.:

(12) Worker's Compensation Insurance Carrier:

Policy No.:

Expiration Date:

(13) General Liability Insurance Carrier:

Policy No.

Expiration Date:

(14) Professional Liability Insurance Carrier:

Policy No.

Expiration Date:

Signature

Date

Printed Name

Company

SAN BENITO HOUSING AUTHORITY

BID FORM**PEST CONTROL SERVICES**

A. The undersigned proposes to furnish all labor and materials required to provide Pest Control Services for all public housing developments and administrative offices owned and operated by the San Benito Housing Authority in San Benito, Texas in accordance with the Contract Documents including any addendums prepared issued the contract price specified below, subject to additions and deductions according to the terms of the contract documents.

Item#	Description	Unit Amount	Estimated Monthly Amount *
1	Palmville Homes 84 units	\$	\$
2	Vista Park 65 units	\$	\$
3	La Hermosa 44 units	\$	\$
4	Stone Village 50 units	\$	\$
5	Magnolia Gardens 8 units	\$	\$
6	Office at Vista Park	\$	\$
7	Office at La Hermosa	\$	\$
8	Office at Stone Village	\$	\$
9	Office at Palmville Homes	\$	\$
10	San Benito Housing main office	\$	\$
11	Laundry at Vista Park	\$	\$
THE SUM OF THE PROPOSED CONTRACT PRICE:			\$

* Monthly Amount based on **All units and offices** being treated, actual amount may differ month-to-month

B. The undersigned certifies under the penalties of perjury that this bid is in all respects bona fide, fair and made without collusion or fraud with any other person. As used in this subsection the word "person" shall mean natural person, joint venture, partnership, corporation or other business or legal entity. The undersigned further certifies under penalty of perjury that the said undersigned is not presently debarred from doing public construction work in the State of Texas, or any other applicable debarment provisions.

Bidder Name (Person, Firm, Corp.)

Signature of Authorized Representative

Address

Name of Authorized Representative

City, State, Zip Code

Title of Authorized Representative

Email Address

Phone Number

SAN BENITO HOUSING AUTHORITY (HA)

LIST AND DESCRIPTION OF PROPERTY LOCATIONS

Total of 105 Buildings – 251 Units, 5 Administrative Offices, and 1 laundry area.

Ø **Palmville Homes – 31 Buildings, 84 Units.**

1400 North Reagan Street

Ø **Vista Park – 32 Buildings, 65 Units.**

100 Cornejo Drive

Ø **La Hermosa – 21 Buildings, 44 Units.**

1155 South McCullough Street

Ø **Stone Village – 22 Buildings, 50 Units.**

1301 Victoria Street

Ø **Magnolia Gardens- 6 Buildings, 8 Units**

1299 Victoria St.

Ø **Administrative Office – 5 Buildings, 5 Units.**

1400 North Reagan Street – 2 buildings

100 Cornejo Drive

1155 South McCullough Street

1301 Victoria Street

Ø **Laundry Facility – 1 Building, 1 Units.**

100 Cornejo Drive

NON-COLLUSIVE AFFIDAVIT
(Prime Bidder)

State of Texas
County of Cameron

_____, being first duly sworn, deposes and says that he/she is _____ of _____ the party making the foregoing bid, that such bid is genuine and not collusive or sham; that said bidder has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or to refrain from bidding; that the bidder has not in any manner, directly or indirectly, sought by agreement or collusion, communication or conference with any person to fix the bidder price of affiant or any other bidder, or to fix any overhead, profit, or cost element of said price, or of that of any other bidder, or to secure any advantage against the San Benito Housing Authority's or anyone's interest in the bid; and that all statements contained in the bid are true.

By: _____

Title: _____

Subscribed and sworn to before me this _____ day of _____, 20____.

My Commission Expires _____, 20____.

NOTARY PUBLIC SEAL

**CERTIFICATION FOR BUSINESS CONCERNS SEEKING SECTION 3 BUSINESS PREFERENCE
IN CONTRACTING AND DEMONSTRATION OF CAPABILITY**

NAME OF BUSINESS: _____

ADDRESS OF BUSINESS: _____

TYPE OF BUSINESS: ☐ Corporation ☐ Partnership ☐ Sole Proprietorship ☐ Joint Venture

Attached is the following documentation as evidence of status:

For business claiming status as a Section 3 resident-owned Enterprise:

☐ Copy of resident lease ☐ Other evidence ☐ Copy of evidence of participation in a public assistance program

For the business entity as applicable:

<input type="checkbox"/> Copy of Articles of Incorporation	<input type="checkbox"/> Certificate of Good Standing
<input type="checkbox"/> Assumed Business Name Certificate	<input type="checkbox"/> Partnership Agreement
<input type="checkbox"/> List of owners/stockholder and % of each	<input type="checkbox"/> Corporation Annual Report
<input type="checkbox"/> Latest Board minutes appointing officers	<input type="checkbox"/> Additional documentation
<input type="checkbox"/> Organization chart with names and titles and brief functional statement	

For business claiming Section 3 status by subcontracting 25% of the dollar awarded to qualified Section 3 business:

☐ List of subcontracted Section 3 business and subcontract amount

For business claiming Section 3 status, claiming at least 30% of their workforce are currently Section 3 residents or were Section 3 eligible residents within 3 years of date of first employment with the business:

<input type="checkbox"/> List of all current full time employees	<input type="checkbox"/> List of all employees claiming Section 3 status
<input type="checkbox"/> PHA Residential lease (less than 3 years from date of employment)	<input type="checkbox"/> Other evidence of Section 3 status (less than 3 years from date of employment)

Evidence of ability to perform successfully under the terms and conditions of the proposed contract:

<input type="checkbox"/> Current financial statement	<input type="checkbox"/> List of owned equipment
<input type="checkbox"/> Statement of ability to comply	<input type="checkbox"/> List of all contracts for the past 2 years with public policy

Corporate Seal

_____ Authorizing Name and Signature	_____ Notary
_____ Title	My term expires: _____
_____ Signature	_____ Date
	_____ Printed Name

SUGGESTED AFFIRMATIVE ACTION PLAN FOR UTILIZATION OF PROJECT AREA BUSINESSES

Number Of All Contracts Proposed: _____

Name Of Company: _____

Dollar Value Of All Contracts Proposed: _____

Project: _____

To The Greatest Extent Feasible, Contracts Will Be Awarded Through Negotiation Or Proposal To Qualified Project Area Businesses.

Goal Of These Contracts For Project Area Businesses:

PROPOSED TYPE OF CONTRACT	APPROX. COST	PROPOSED TYPE OF CONTRACT	APPROX. COST

Outline The Program To Achieve These Goals For Economically And Socially Disadvantaged:

NOTE: To Complete The Affirmative Action Plan, Follow Steps Outlines In Attached Exhibit.

(INSERT THIS DOCUMENT IN PROPOSAL DOCUMENTS AND WITH DATE: _____
PROPOSAL)

Signature

Date

Printed Name

**SUGGESTED AFFIRMATIVE ACTION PLAN FOR UTILIZATION OF PROJECT AREA BUSINESSES
(con'd)**

SUGGESTED SECTION 3 PRELIMINARY WORKFORCE STATEMENT UTILIZATION OF LOWER INCOME PROJECT AREA RESIDENTS AS REGULAR, PERMANENT EMPLOYEES, TRAINEES, APPRENTICES.

COMPANY NAME: _____

ADDRESS: _____

PROJECT: _____

	PRESENT PERMANENT EMPLOYEES (At Time of Contract Signing)	SECTION 3 WORKFORCE PROJECTION (Residents)	TOTAL PROJECTED WORKFORCE INCREASE
TRAINEES			
APPRENTICES			
JOURNEYPERSONS			
LABORERS			
SUPERVISORY			
SUPERINTENDENT			
PROFESSIONAL			
CLERICAL			

NOTE: RESIDENTS ARE THOSE LOWER INCOME PROJECT AREA RESIDENTS WHO HAVE BEEN QUALIFIED AS ELIGIBLE.

Signature Date Printed Name

SECTION 3 BUSINESS PREFERENCE CLAUSE

This contract is subject to the following conditions under Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3).

- 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 or 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 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 (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 Enterprise. 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 compliance with Section 7(b).

PREFERENCE FOR SECTION 3 BUSINESS CONCERNS IN CONTRACTING OPPORTUNITIES

The HA has established the following priority for preference when providing contracting opportunities to Section 3 Businesses:

Priority I

Category 1a Business

Business concerns that are 51 percent or more owned by residents of the housing development or developments for which the Section 3-covered assistance is expended.

Priority II

Category 1b Business

Business concerns whose workforce includes 30 percent of residents of the housing development for which the Section 3-covered assistance is expended, or within three (3) years of the date of first employment with the business concern, were residents of the Section 3-covered housing development.

Priority III

Category 2a Business

Business concerns that are 51 percent or more owned by residents of any other housing development or developments.

Priority IV

Category 2b Business

Business concerns whose workforce includes 30 percent of residents of any other public housing development or developments, or within three (3) years of the date of first employment with the business concern, were "Section 3" residents of any other public housing development.

Priority V

Category 3 Business

Business concerns participating in HUD Youth-build programs being carried out in the metropolitan area in which the Section 3-covered assistance is expended.

Priority VI

Category 4a Business

Business concerns that are 51 percent or more owned by Section 3 residents in the metropolitan area, or whose permanent, full-time workforce includes no less than 30 percent of Section 3 residents in the metropolitan area, or within three (3) years of the date of employment with the business concern, were Section 3 residents in the metropolitan area.

Priority VII

Category 4b Business

Business concerns that subcontract in excess of 25 percent of the total amount of subcontracts to Section 3 business concerns.

Eligibility for Preference

A business concern seeking to qualify for a Section 3 contracting preference shall certify or submit evidence that the business concern is a Section business concern.

HUD directs within 24 CFR 135 that the HA may make award to qualified Section 3 business concern with the highest priority ranking and with the lowest responsive proposal if that proposal is:

- (a) within the maximum total contract price established by the HA; or
- (b) not more than “X” higher than the total proposal price of the lowest responsive proposal from any responsible proposer. “X” is determined as follows:

“X” = LESSOR OF:	
When the lowest responsive proposal is less than \$100,000	10% of that proposal, or \$9,000.00
When the lowest responsive proposal is at least:	
\$100,000.00, but less than \$200,000.00	9% of that proposal, or \$16,000.00
\$200,000.00, but less than \$300,000.00	8% of that proposal, or \$21,000.00
\$300,000.00, but less than \$400,000.00	7% of that proposal, or \$24,000.00
\$400,000.00, but less than \$500,000.00	6% of that proposal, or \$25,000.00
\$500,000.00, but less than \$1,000,000.00	5% of that proposal, or \$40,000.00
\$1,000,000.00, but less than \$2,000,000.00	4% of that proposal, or \$60,000.00
\$2,000,000.00, but less than \$4,000,000.00	3% of that proposal, or \$80,000.00
\$4,000,000.00, but less than \$7,000,000.00	2% of that proposal, or \$105,000.00
\$7,000,000.00, or more	1.5% of the lowest responsive and responsible proposal with no dollar limit

**Equal Employment
Opportunity Certification**
Excerpt From 41 CFR §60-1.4(b)

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

Department of Veterans Affairs
OMB Control No. 2502-0029
(exp. 4/30/2020)

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 who has not demonstrated eligibility for, and who is not participating in, 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

ATTACHMENT E

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

200.410Definition 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

200.420Equal 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.

200.425Modification 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.

Instructions to Offerors Non-Construction

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



- 03291 -

1. Preparation of Offers

(a) Offerors are expected to examine the statement of work, the proposed contract terms and conditions, and all instructions. Failure to do so will be at the offeror's risk.

(b) Each offeror shall furnish the information required by the solicitation. The offeror shall sign the offer and print or type its name on the cover sheet and each continuation sheet on which it makes an entry. Erasures or other changes must be initialed by the person signing the offer. Offers signed by an agent shall be accompanied by evidence of that agent's authority, unless that evidence has been previously furnished to the HA.

(c) Offers for services other than those specified will not be considered.

2. Submission of Offers

(a) Offers and modifications thereof shall be submitted in sealed envelopes or packages (1) addressed to the office specified in the solicitation, and (2) showing the time specified for receipt, the solicitation number, and the name and address of the offeror.

(b) Telegraphic offers will not be considered unless authorized by the solicitation; however, offers may be modified by written or telegraphic notice.

(c) Facsimile offers, modifications or withdrawals will not be considered unless authorized by the solicitation.

3. Amendments to Solicitations

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

(b) Offerors shall acknowledge receipt of any amendments to this solicitation by

- (1) signing and returning the amendment;
- (2) identifying the amendment number and date in the space provided for this purpose on the form for submitting an offer,
- (3) letter or telegram, or
- (4) facsimile, if facsimile offers are authorized in the solicitation. The HA/HUD must receive the acknowledgment by the time specified for receipt of offers.

4. Explanation to Prospective Offerors

Any prospective offeror desiring an explanation or interpretation of the solicitation, statement of work, etc., must request it in writing soon enough to allow a reply to reach all prospective offerors before the submission of their offers. Oral explanations or instructions given before the award of the contract will not be binding. Any information given to a prospective offeror concerning a solicitation will be furnished promptly to all other prospective offerors as an amendment of the solicitation, if that information is necessary in submitting offers or if the lack of it would be prejudicial to any other prospective offerors.

5. Responsibility of Prospective Contractor

(a) The HA shall award a contract only to a responsible prospective contractor who is able to perform successfully under the terms and conditions of the proposed contract. To be determined responsible, a prospective contractor must -

- (1) Have adequate financial resources to perform the contract, or the ability to obtain them;

- (2) Have a satisfactory performance record;
- (3) Have a satisfactory record of integrity and business ethics;
- (4) Have a satisfactory record of compliance with public policy (e.g., Equal Employment Opportunity); and
- (5) Not have been suspended, debarred, or otherwise determined to be ineligible for award of contracts by the Department of Housing and Urban Development or any other agency of the U.S. Government. Current lists of ineligible contractors are available for inspection at the HA/HUD.

(b) Before an offer is considered for award, the offeror may be requested by the HA to submit a statement or other documentation regarding any of the foregoing requirements. Failure by the offeror to provide such additional information may render the offeror ineligible for award.

6. Late Submissions, Modifications, and Withdrawal of Offers

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

- (1) Was sent by registered or certified mail not later than the fifth calendar day before the date specified for receipt of offers (e.g., an offer submitted in response to a solicitation requiring receipt of offers by the 20th of the month must have been mailed by the 15th);
- (2) Was sent by mail, or if authorized by the solicitation, was sent by telegram or via facsimile, and it is determined by the HA/ HUD that the late receipt was due solely to mishandling by the HA/ HUD after receipt at the HA;
- (3) Was sent by U.S. Postal Service Express Mail Next Day Service - Post Office to Addressee, not later than 5:00 p.m. at the place of mailing two working days prior to the date specified for receipt of proposals. The term "working days" excludes weekends and U.S. Federal holidays; or
- (4) Is the only offer received.

(b) Any modification of an offer, except a modification resulting from the HA's request for "best and final" offer (if this solicitation is a request for proposals), is subject to the same conditions as in subparagraphs (a)(1), (2), and (3) of this provision.

(c) A modification resulting from the HA's request for "best and final" offer received after the time and date specified in the request will not be considered unless received before award and the late receipt is due solely to mishandling by the HA after receipt at the HA.

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

(e) The only acceptable evidence to establish the time of receipt at the HA is the time/date stamp of HA on the offer wrapper or other documentary evidence of receipt maintained by the HA.

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

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

(h) If this solicitation is a request for proposals, proposals may be withdrawn by written notice, or if authorized by this solicitation, by telegram (including mailgram) or facsimile machine transmission received at any time before award. Proposals may be withdrawn in person by a offeror or its authorized representative if the identity of the person requesting withdrawal is established and the person signs a receipt for the offer before award. If this solicitation is an invitation for bids, bids may be withdrawn at any time prior to bid opening.

7. Contract Award

(a) The HA will award a contract resulting from this solicitation to the responsible offeror whose offer conforming to the solicitation will be most advantageous to the HA, cost or price and other factors, specified elsewhere in this solicitation, considered.

(b) The HA may

- (1) reject any or all offers if such action is in the HA's interest,
- (2) accept other than the lowest offer,
- (3) waive informalities and minor irregularities in offers received, and (4) award more than one contract for all or part of the requirements stated.

(c) If this solicitation is a request for proposals, the HA may award a contract on the basis of initial offers received, without discussions. Therefore, each initial offer should contain the offeror's best terms from a cost or price and technical standpoint.

(d) A written award or acceptance of offer mailed or otherwise furnished to the successful offeror within the time for acceptance specified in the offer shall result in a binding contract without further action by either party. If this solicitation is a request for proposals, before the offer's specified expiration time, the HA may accept an offer, whether or not there are negotiations after its receipt, unless a written notice of withdrawal is received before award. Negotiations conducted after receipt of an offer do not constitute a rejection or counteroffer by the HA.

(e) Neither financial data submitted with an offer, nor representations concerning facilities or financing, will form a part of the resulting contract.

8. Service of Protest

Any protest against the award of a contract pursuant to this solicitation shall be served on the HA by obtaining written and dated acknowledgment of receipt from the HA at the address shown on the cover of this solicitation. The determination of the HA with regard to such protest or to proceed to award notwithstanding such protest shall be final unless appealed by the protestor.

9. Offer Submission

Offers shall be submitted as follows and shall be enclosed in a sealed envelope and addressed to the office specified in the solicitation. The proposal shall show **the hour and date specified in the solicitation for receipt, the solicitation number, and the name and address of the offeror, on the face of the envelope.**

It is very important that the offer be properly identified on the face of the envelope as set forth above in order to insure that the date and time of receipt is stamped on the face of the offer envelope. Receiving procedures are: date and time stamp those envelopes identified as proposals and deliver them immediately to the appropriate contracting official, and only date stamp those envelopes which do not contain identification of the contents and deliver them to the appropriate procuring activity only through the routine mail delivery procedure.

[Describe bid or proposal preparation instructions here:]

General Conditions for Non-Construction Contracts

Section II – (With Maintenance Work)

U.S. Department of Housing and Urban Development

Office of Public and Indian Housing

Office of Labor Relations

OMB Approval No. 2577-0157 (exp. 11/30/2023)

Public Reporting Burden for this collection of information is estimated to average one 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.

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

- 1) Non-construction contracts (*without* maintenance) greater than \$150,000 - use Section I;
- 2) Maintenance contracts (including nonroutine maintenance as defined at 24 CFR 905.200) greater than \$2,000 but not more than \$150,000 - use Section II; and
- 3) Maintenance contracts (including nonroutine maintenance), greater than \$150,000 – use Sections I and II.

Section II – Labor Standard Provisions for all Maintenance Contracts greater than \$2,000

1. Minimum Wages

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

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

2. Withholding of funds

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

3. Records

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

4. Apprentices and Trainees

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

- Apprenticeship Training, Employer and Labor Services (OATELS), or with a state apprenticeship agency recognized by OATELS, or if a person is employed in his/her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by OATELS or a state apprenticeship agency (where appropriate) to be eligible for probationary employment as an apprentice; A
- (ii) A trainee program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, ETA; or
 - (iii) A training/trainee program that has received prior approval by HUD.
- (b) Each apprentice or trainee must be paid at not less than the rate specified in the registered or approved program for the apprentice's/trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Apprentices and trainees shall be paid fringe benefits in accordance with the provisions of the registered or approved program. If the program does not specify fringe benefits, apprentices/trainees must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification.
 - (c) The allowable ratio of apprentices or trainees to journeyman on the job site in any craft classification shall not be greater than the ratio permitted to the employer as to the entire work force under the approved program.
 - (d) Any worker employed at an apprentice or trainee wage rate who is not registered in an approved program, and any apprentice or trainee performing work on the job site in excess of the ratio permitted under the approved program, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed.
 - (e) In the event OATELS, a state apprenticeship agency recognized by OATELS or ETA, or HUD, withdraws approval of an apprenticeship or trainee program, the employer will no longer be permitted to utilize apprentices/trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

5. Disputes concerning labor standards

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

- (ii) forth those findings that are in dispute and the reasons, including any affirmative defenses, with respect to the violations. The request shall be directed to the appropriate HA or HUD official in accordance with instructions contained in the notice of findings or, if the notice does not specify to whom a request should be made, to the Regional Labor Relations Officer (HUD). The HA or HUD official shall, within 60 days (unless otherwise indicated in the notice of findings) after receipt of a timely request for reconsideration, issue a written decision on the findings of violation. The written decision on reconsideration shall contain instructions that any appeal of the decision shall be addressed to the Regional Labor Relations Officer by letter postmarked within 30 calendar days after the date of the decision. In the event that the Regional Labor Relations Officer was the deciding official on reconsideration, the appeal shall be directed to the Director, Office of Labor Relations (HUD). Any appeal must set forth the aspects of the decision that are in dispute and the reasons, including any affirmative defenses, with respect to the violations. The Regional Labor Relations Officer shall, within 60 days (unless otherwise indicated in the decision on reconsideration) after receipt of a timely appeal, issue a written decision on the findings. A decision of the Regional Labor Relations Officer may be appealed to the Director, Office of Labor Relations, by letter postmarked within 30 days of the Regional Labor Relations Officer's decision. Any appeal to the Director must set forth the aspects of the prior decision(s) that are in dispute and the reasons. The decision of the Director, Office of Labor Relations, shall be final.
- (b) Disputes arising out of the labor standards provisions of paragraph 6 shall not be subject to paragraph 5(a) of this form HUD-5370C. Such disputes shall be resolved in accordance with the procedures of the U.S. Department of Labor set forth in 29 CFR Parts 5, 6 and 7. Disputes within the meaning of this paragraph 5(b) include disputes between the Contractor (or any of its subcontractors) and the HA, HUD, the U.S. Department of Labor, or the employees or their representatives.

6. Contract Work Hours and Safety Standards Act

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

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

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

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

7. Subcontracts

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

8. Non-Federal Prevailing Wage Rates

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

**TABLE 5.1 MANDATORY CONTRACT CLAUSES FOR SMALL PURCHASES
OTHER THAN CONSTRUCTION**

The following contract clauses are required in contracts pursuant to **24 CFR 85.36(i)** and Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. HUD is permitted to require changes, remedies, changed conditions, access and records retention, suspension of work, and other clauses approved by the Office of Federal Procurement Policy. The PHA and contractor is also subject to other Federal laws including the U.S. Housing Act of 1937, as amended, Federal regulations, and state law and regulations.

Examination and Retention of Contractor's Records. The PHA, HUD, or Comptroller General of the United States, or any of their duly authorized representatives shall, until three 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.

Right in Data and Patent Rights (Ownership and Proprietary Interest). The PHA shall have exclusive ownership of, all proprietary interest in, and the right to full and exclusive possession of all information, materials, and documents discovered or produced by Contractor pursuant to the terms of this Contract, including, but not limited to, reports, memoranda or letters concerning the research and reporting tasks of the Contract.

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

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.

Termination for Cause and for Convenience (contracts of \$10,000 or more).

(a) The PHA may terminate this contract in whole, or from time to time in part, for the PHA's convenience or the failure of the Contractor to fulfill the contract obligations (cause/default). The PHA shall terminate by delivering to the Contractor a written Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, the Contractor shall: (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the PHA all information, reports, papers, and other materials accumulated or generated in performing the contract, whether completed or in process.

(b) If the termination is for the convenience of the PHA, the PHA shall be liable only for payment for services rendered before the effective date of the termination.

(c) If the termination is due to the failure of the Contractor to fulfill its obligations under the contract (cause/default), the PHA may (1) require the Contractor to deliver to it, in the manner and to the extent directed by the PHA, any work described in the Notice of Termination; (2) take over the work and prosecute the same to completion by contract of otherwise, and the Contractor shall be liable for any additional cost incurred by the PHA; and (3) withhold any payments to the Contractor, for the purpose of set-off or partial payment, as the case may be, of amounts owned by the PHA by the Contractor. In the event of termination for cause/default, the PHA shall be liable to the Contractor for reasonable costs incurred by the Contractor before the effective date of the termination. Any dispute shall be decided by the Contracting Officer.