



HOUSING AUTHORITY
CITY OF BROWNSVILLE

Request for Proposals No. 24-001

IT SYSTEM MAINTENANCE SERVICES

2606 Boca Chica Blvd
Brownsville, TX 78521

Ph. (956) 214-1534

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www.hacb.us

RFP Document

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INTRODUCTION

The Housing Authority of the City of Brownsville (hereinafter, “the Agency”) is a public housing agency created by resolution of the City of Brownsville in 1938 pursuant to the Texas Housing Authorities Law (now Chapter 392 of the Texas Local Government Code and federal law). The Agency is a unit of government and its functions are essential governmental functions. The property of the Agency is used for essential public and governmental purposes, and is exempt from all taxes, including sales tax on all its purchases of supplies and services.

Its primary activity is the ownership and management of over 180 public housing units. It also administers rental assistance for 2,768 privately owned rental units through the Housing Choice Voucher (HCV) program. It operates and manages its housing developments to provide decent, safe, sanitary and affordable housing to low income families, the elderly, and the disabled, and implements various programs designed and funded by HUD.

In keeping with its mandate to provide efficient and effective services, the Agency is now soliciting proposals from qualified, licensed and insured entities to provide the above noted services to the Agency. All proposals submitted in response to this solicitation must conform to all of the requirements and specifications outlined within this document and any designated attachments in its entirety.

RFP INFORMATION AT A GLANCE

AGENCY CONTACT PERSON	Noemi Alejandro, Accountant Email: nalejandro@hacb.us Telephone: (956) 214-1534
HOW TO OBTAIN THE RFP DOCUMENTS ON THE APPLICABLE INTERNET SITE	Online: www.hacb.us Click on “Doing business with HACB” tab; or , At HACB Main Office, 2606 Boca Chica Blvd. Brownsville, TX 78521
PRE-PROPOSAL CONFERENCE	None Scheduled.
QUESTION SUBMITTAL DEADLINE	Wednesday, April 17, 2024, 5:00 PM C.S.T.
HOW TO FULLY RESPOND TO THIS RFP BY SUBMITTING A PROPOSAL SUBMITTAL	Submit 1 original and 3 exact copies of your proposal in a sealed envelope/package to the HACB Finance Dept. following the format as described under Section 3, Proposal Format.
PROPOSAL SUBMITTAL RETURN & DEADLINE	Thursday, May 9, 2024 at 4:00 P.M. C.S.T. Finance Department 2606 Boca Chica Blvd Brownsville, TX 78521
ANTICIPATED APPROVAL BY HACB BOARD OF COMMISSIONERS	May 2024

1.0 HACB'S RESERVATION OF RIGHTS:

- 1.1 The HACB reserves the right to reject any or all proposals, to waive any informality in the RFP process, or to terminate the RFP process at any time, if deemed by the HACB to be in its best interests.
- 1.2 The HACB reserves the right not to award a contract pursuant to this RFP.
- 1.3 The HACB reserves the right to terminate a contract awarded pursuant to this RFP, at any time for its convenience upon 10 days written notice to the successful proposer(s).
- 1.4 The HACB reserves the right to determine the days, hours and locations that the successful proposer(s) shall provide the services called for in this RFP.
- 1.5 The HACB reserves the right to retain all proposals submitted and not permit withdrawal for a period of 60 days subsequent to the deadline for receiving proposals without the written consent of the HACB Contracting Officer (CO).
- 1.6 The HACB reserves the right to negotiate the fees proposed by the proposer entity.
- 1.7 The HACB reserves the right to reject and not consider any proposal that does not meet the requirements of this RFP, including but not necessarily limited to incomplete proposals and/or proposals offering alternate or non-requested services.
- 1.8 The HACB shall have no obligation to compensate any proposer for any costs incurred in responding to this RFP.
- 1.9 The HACB shall reserve the right to at any time during the RFP or contract process to prohibit any further participation by a proposer or reject any proposal submitted that does not conform to any of the requirements detailed herein. By downloading and/or receiving this document, each prospective proposer is thereby agreeing to abide by all terms and conditions listed within this document, 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 HACB that he/she feels needs to be addressed. Failure to abide by this time frame shall relieve HACB, but not the prospective proposer, of any responsibility pertaining to such issue.
- 1.10 The HACB reserves the right to reduce or increase estimated or actual quantities in whatever amount necessary without prejudice or liability to the HACB, if:
 - 1.10.1 Funding is not available;
 - 1.10.2 Legal restrictions are placed upon the expenditure of monies for this category of service or supplies, or;
 - 1.10.3 HACB's requirements in good faith change after award of the contract.
- 1.11 The HACB reserves the right to require additional information from all proposers to determine level of responsibility. Such information shall be submitted in the form required by HACB within two (2) days of written request.

2.0 SCOPE OF WORK/TECHNICAL SPECIFICATIONS. The Agency is requesting proposals from qualified and experienced computer consultant(s) to provide the following detailed services:

2.1 General Intent. It is the intent of the Agency to retain a contractor, pursuant to the requirements of this RFP and the ensuing contract to provide services that will require the accomplishment of the following tasks. The Agency may pay for these services rendered from various funding sources including, but not limited to: Housing Choice Voucher Program Funds, Public Housing Program Funds, Capital Funds, or other HUD or State programs.

2.2 General Overview.

2.2.1 The Agency employs 53 full-time employees, of which 44 are administrative and 9 are in maintenance.

2.2.2 The Agency currently has 37 users with Dell workstations, 16 with laptops, 16 users have iPads, 16 users have Smart Phones, and 1 of them has an iMac desktop as well.

2.2.3 In addition to above, the Agency's Learning Centers have 9 Dell desktop computers.

2.2.5 The main administrative office is located at 2606 Boca Chica Blvd., Brownsville, TX, 78521.

2.2.5.1 In addition, there are two remote offices located at:

2.2.5.1.1 Linda Vista Development Office, 600 Old Port Isabel Rd., Brownsville, TX, 78521.

2.2.5.1.2 Victoria Gardens Office, 1809 Grant St., Brownsville, TX, 78521.

2.2.5.2 There are six remote Learning Centers located at (each with computers and printers not included in the count above):

2.2.5.2.1 Citrus Annex Learning Center, 96 Tangelo St. (three computers and one printer)

2.2.5.2.2 Las Brisas Learning Center, 2426 Barnard Rd. (three computers and one printer)

2.2.5.2.3 Victoria Gardens Learning Center, 1809 Grant St. (three computers and one printer)

2.2.5.2.4 Linda Vista Learning Center, 602 Old Port Isabel Rd. (two computers and one printer)

2.2.5.2.5 Poinsettia Gardens Bibliotech, 341 Oak St.(eight iMac desktops)

2.2.5.2.6 Trail Village Bibliotech, 25 Paseo Blvd (twelve iMac desktops)

2.2.6 The Agency network runs on Windows platform with four servers; including:

2.2.6.1 Microsoft SQL Server 2012;

2.2.6.2 55 8x8 Managed Phones;

2.2.6.3 Microsoft 365 Exchange Server;

2.2.6.4 Microsoft Defender Plan II;

2.2.6.5 Sage Accounting Software;

2.2.6.6 Quest Rapid Recovery Software for 5TB Repository (Software licenses provided by IT Company);

2.2.6.7 BitDefender MDR Software (Software licenses provided by IT Company);

2.2.6.8 Microsoft Hyperv Cluster Environment;

2.2.6.9 55 Windows 10 and Windows 11 workstations;

2.2.6.10 3 Windows Server 2019 Physical Servers

2.2.6.11 1 Windows Servers 2019 Microsoft Azure Cloud Server

2.2.6.12 3 Windows 2008 R2 Hyperv Servers

2.2.6.13 4 Separate Networks - 4 Separate Locations - 4 Sonicwall Firewall/Routers

2.2.6.14 Microsoft Azure & Microsoft 365 Cloud Environment

2.2.6.15 Offsite Microsoft Azure Rapid Recovery Server;

2.2.6.16 Atera RMM Software (Software licenses provided by IT Company);

2.2.6.17 3 VPN site to site connections;

2.3 **Specific Services.** The services that the successful proposer will provide include, but are not limited to, the following issues on a task order basis ("task order" meaning, services will be ordered by the Agency, in writing, on an as-needed basis) at all Agency locations:

- 2.3.1 Consulting, installation, setup, and maintenance of any new equipment;
- 2.3.2 Trouble-shooting and resolution of issues pertaining to computers, servers, workstation computers and network systems;
- 2.3.3 At various times perform services at Agency's headquarters, or at other remote facilities as directed by Agency;
- 2.3.4 Install and configure upgrades; and
- 2.3.5 General server maintenance.
- 2.3.6 In the case of non-emergency service calls, once notified by the AGENCY, if notified prior to 12:00 p.m. on a work day, the successful proposer shall arrive at the Agency work location, ready to address the issue, by that afternoon; similarly, if notified by the Agency after 12:00 p.m., the successful proposer shall arrive at the Agency work location, ready to address the issue, by the morning (prior to 12:00 p.m.) of the next work day.
- 2.3.7 In the case of a system failure (as with all emergencies), once notified by the Agency, the successful proposer must respond by arriving at the Agency site, ready to begin work, within 2 hours.

2.4 **Previous/Current Contractor:** The current contract for these services is with Tech-net Consulting Group located in Brownsville, Texas.

3.0 PROPOSAL FORMAT:

3.1 **Tabbed Proposal Submittal:** The HACB intends to retain the successful proposer pursuant to a "Best Value" basis, not a "Low Proposal" basis ("Best Value," in that the HACB will, as detailed within the following Section 4.0, consider factors other than just cost in making the award decision). Therefore, so that the HACB can properly evaluate the offers received, all proposals submitted in response to this RFP must be formatted in accordance with the sequence noted following.

3.1.1 **Form of Proposal, Proposal Bid Forms and Certifications:** These Forms are attached hereto as Attachment A to this RFP document. These Forms must be fully completed, executed where provided thereon and submitted under this tab as a part of the proposal submittal.

3.1.2 **Form HUD 5369-C (8/93), *Certifications and Representations of Offerors, Non-Construction Contract*:** This Form is attached hereto as Attachment B to this RFP document. This 2-page Form must be fully completed, executed where provided thereon and submitted under this tab as a part of the proposal submittal.

3.1.3 **Profile of Firm Form:** The Profile of Firm Form is attached hereto as Attachment C to this RFP document. This 2-page Form must be fully completed, executed and submitted under this tab as a part of the proposal submittal.

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3.1.4 Managerial Capacity and Experience: Firm's experience in IT System Maintenance Services for a scope of this size. Length of time contractor has been providing the services requested by this RFP. The proposer must submit under this tab a concise description of its managerial and utilization plan to deliver the proposed services to include:

3.1.4.1 Firm's experience in the operation of IT System Maintenance Services of this or greater scope on a routine basis and on an as-needed basis.

3.1.4.2 Management plan for oversight of all IT System Maintenance Services assigning work crews and the coordination of owner's personnel, subcontractors and suppliers to comply with the schedules.

3.1.4.3 Project Supervisor/Manager and staff's IT System Maintenance Services expertise.

3.1.4.4 Quality Plan: Plan or procedure to monitor employees and subcontractor performance during the contract period to monitor and address both quality and timeliness of services. Quality Control Plan shall be submitted to include plan to respond to management and tenant issues and dispatching capabilities for scheduling.

3.1.5 Client Information: The Proposer shall submit three former or current clients, preferably other than HACB, for whom the proposer has performed similar or like services to those being proposed herein. The listing shall, at a minimum, include:

3.1.5.1 The client's name;

3.1.5.2 The client's contact name;

3.1.5.3 The client's telephone number;

3.1.5.4 A brief description and scope of the service(s) and the dates the services were provided.

3.1.6 Subcontractor/Joint Venture Information (Optional Item): The proposer shall identify hereunder whether or not he/she intends to use any subcontractors for this job, if awarded, and/or if the proposal is a joint venture with another firm. Please remember that all information required from the proposer under the proceeding tabs must also be included for any major subcontractors (10% or more) or from any joint venture.

3.1.7 Section 3 Business Preference Documentation (Optional Item): For any proposer claiming a Section 3 Business Preference, he/she shall under this tab include the fully completed and executed Section 3 Business Preference Certification Form attached hereto as Attachment D and any documentation required by that form.

3.1.8 Other Information (Optional Item): The proposer may include hereunder any other general information that the proposer believes is appropriate to assist the HACB in its evaluation.

If no information is to be placed under any of the above noted tabs (especially the "Optional" 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.

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

3.2 Entry of Proposed Fees: Proposed fee for each item is inclusive of all necessary costs to provide proposed services, including, but not limited to employee costs and benefits; clerical support; overhead; profit; supplies; materials; licensing; insurance, vehicle fuel, etc. Each fee proposed shall be fully burdened with profit and overhead costs.

3.3 Quantities: All quantities entered by the HACB herein are for calculating purposes only. As may be further detailed herein, the HACB does not guarantee any minimum or maximum amount of work as a result of any award ensuing from this RFP.

3.4 Escalation: Pertaining to the ensuing contract, there shall be no escalation of the proposed unit costs allowed at any time during the awarded contract periods. The successful proposer guarantees, by submitting a proposal, that he/she will guarantee or hold without an increase all proposed costs for a period of 3 years. For the 4th- and 5th-year contract periods, if the successful proposer chooses to not hold or guarantee the originally proposed costs, the HACB will not force the successful proposer to renew the contract at the original pricing but will conduct a new competitive solicitation process, which the successful proposer may respond to (unless otherwise barred by the HACB for default or poor performance or other similar cause); and the successful proposer may only do so by delivery to the HACB of a written notice delivered to the CO at least 120 days prior to the end of the contract period.

3.5 Proposal Submission: All proposals must be submitted and time-stamped received in the designated HACB office by no later than the submittal deadline stated herein (or within any ensuing addendum). A total of 1 original signature copy (marked "ORIGINAL") and 3 exact copies (each of the 4 separate proposal submittals shall have a cover and extending tabs) of the proposal submittal, shall be placed unfolded in a sealed package and addressed to:

FINANCE DEPARTMENT
HOUSING AUTHORITY OF THE CITY OF BROWNSVILLE
ATTENTION: NOEMI ALEJANDRO
ACCOUNTANT
2606 BOCA CHICA BLVD.
BROWNSVILLE, TEXAS 78521

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The package exterior must clearly denote the above noted RFP number and must have the proposer's name and return address. Proposals received after the published deadline will not be accepted.

3.5.1 Submission Conditions: DO NOT FOLD OR MAKE ANY ADDITIONAL MARKS, NOTATIONS OR REQUIREMENTS ON THE DOCUMENTS TO BE SUBMITTED! Proposers 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 HACB by the proposer, such may invalidate that proposal. If, after accepting such a proposal, the HACB decides that any such entry has not changed the intent of the proposal that the HACB intended to receive, the HACB may accept the proposal and the proposal shall be considered by the HACB as if those additional marks, notations or requirements were not entered on such. By accessing the noted Internet System, registering and downloading these documents, each prospective proposer that does so is thereby agreeing to confirm all notices that the HACB delivers to him/her as instructed, and by submitting a proposal, the proposer is thereby agreeing to abide by all terms and conditions published herein and by addendum pertaining to this RFP.

3.5.2 Submission Responsibilities: It shall be the responsibility of each proposer to be aware of and to abide by all dates, times, conditions, requirements and specifications set forth within all applicable documents issued by the HACB, including the RFP document, the documents listed within the following Section 3.8, and any addenda and required attachments submitted by the proposer. By virtue of completing, signing and submitting the completed documents, the proposer is stating his/her agreement to comply with the all conditions and requirements set forth within those documents. Written notice from the proposer not authorized in writing by the CO to exclude any of the HACB requirements contained within the documents may cause that proposer to not be considered for award.

3.6 Proposer's Responsibilities--Contact with the HACB: It is the responsibility of the proposer to address all communication and correspondence pertaining to this RFP process to the CO only. Proposers must not make inquiry or communicate with any other HACB staff member or official (including members of the Board of Commissioners) pertaining to this RFP. Failure to abide by this requirement may be cause for the HACB to not consider a proposal submittal received from any proposer who may has not abided by this directive.

3.6.1 Addendums: All questions and requests for information must be addressed in writing to the CO. The CO will respond to all such inquiries in writing by addendum to all prospective proposers (i.e. firms or individuals that have obtained the RFP Documents). During the RFP solicitation process, the CO will NOT conduct any *ex parte* (a substantive conversation—“substantive” meaning, when decisions pertaining to the RFP are made—between the HACB and a prospective proposer when other prospective proposers are not present) conversations that may give one prospective proposer an advantage over other prospective proposers. This does not mean that prospective proposers may not call the CO—it simply means that, other than making replies to direct the prospective proposer where his/her answer has already been issued within the solicitation documents, the CO may not respond to the prospective proposer’s inquiries but will direct him/her to submit such inquiry in writing so that the CO may more fairly respond to all prospective proposers in writing by addendum.

3.7 Recap of Attachments: It is the responsibility of each proposer to verify that he/she has received the following attachments pertaining to this RFP, which are hereby by reference included as a part of this RFP:

RFP Section	Attachment	Description
3.7.1	A	Form of Proposal and Proposal Bid Form
3.7.2	B	Form HUD-5369-C (8/93), <i>Certifications and Representations of Offerors, Non-Construction Contract</i>
3.7.3	C	Profile of Firm Form
3.7.4	D	Section 3 Forms including explanation
3.7.5	E	Form HUD-5369-B (8/93), <i>Instructions to Offerors, Non-Construction</i>
3.7.6	F	Form HUD-5370-C (10/2006), <i>General Conditions for Non-Construction Contracts Section I (With or without Maintenance Work)</i>
3.7.7	G	Agency Computer Network Diagram

4.0 PROPOSAL EVALUATION:

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

NO.	MAX POINT VALUE	FACTOR TYPE	FACTOR DESCRIPTION
1	40 points	Objective	The PROPOSED COSTS the proposer proposes to charge the HACB to complete the required work.
2	10 points	Subjective (Technical)	The proposer's DEMONSTRATED UNDERSTANDING of the REQUIREMENT ;
3	25 points	Subjective (Technical)	Managerial Capacity and Relevant Experience: Firm's experience in IT System Maintenance Services for a scope of this size. Length of time contractor has been providing the services requested by RFP. Management plan for oversight of all IT System Maintenance Services assigning work crews and the coordination of owner's personnel, subcontractors and suppliers to comply with the schedules. Project Manager and staff's IT Systems Maintenance Services expertise.
4	15 points	Subjective (Technical)	Quality Plan: Plan or procedure to monitor employees and subcontractor performance during the contract period to monitor and address both quality and timeliness of services.
5	10 points	Subjective (Technical)	The OVERALL QUALITY AND PROFESSIONAL APPEARANCE OF THE PROPOSAL SUBMITTED , based upon the opinion of the evaluators.
	100 points	100 points	Total Points (other than preference points)

4.1.1 Preference Evaluation Factor: The following factors will be utilized by the CO to evaluate each proposal submittal received:

NO.	MAX POINT VALUE	FACTOR TYPE	FACTOR DESCRIPTION
7		Objective	SECTION 3 BUSINESS PREFERENCE PARTICIPATION: A firm may qualify for Section 3 status as detailed within Attachment D (NOTE: A max of 5 points awarded).
7a	15 points		Priority I: As detailed on page 5 of Attachment D.
7b	12 points		Priority II: As detailed on page 5 of Attachment D.
7c	9 points		Priority III: As detailed on page 5 of Attachment D.
7d	6 points		Priority IV: As detailed on page 5 of Attachment D.
7e	3 points		Priority V/VI: As detailed on page 5 of Attachment D.
	15 points		Maximum Preference Points (Additional)
	115 points		Total Possible Points

4.2 Evaluation Method:

- 4.2.1 **Initial Evaluation for Responsiveness:** Each proposal received will first be evaluated for responsiveness (e.g., meets the minimum of the published requirements). The HACB reserves the right to reject any proposals deemed by the HACB not minimally responsive (the HACB will notify such firms in writing of any such rejection).
- 4.2.2 **Evaluation Packet for Proposals Deemed Responsive:** Internally, an evaluation packet will be prepared for each evaluator, including the following documents:
- 4.2.2.1 Instructions to Evaluators;
 - 4.2.2.2 Proposal Tabulation Form;
 - 4.2.2.3 Written Narrative Justification Form for each proposer;
 - 4.2.2.4 Recap of each proposer’s responsiveness;
 - 4.2.2.5 Copy of all pertinent RFP documents.
- 4.2.3 **Evaluation Committee:** The HACB anticipates that it will select a minimum of a three-person committee to evaluate each of the responsive “hard copy” proposals submitted in response to this RFP. PLEASE NOTE: No proposer shall be informed at any time during or after the RFP process as to the identity of any evaluation committee member. If, by chance, a proposer does become aware of the identity of such person(s), he/she SHALL NOT make any attempt to contact or discuss with such person anything related to this RFP. As detailed within Section 3.6 of this document, the designated CO is the only person at the HACB that the proposers shall contact pertaining to this RFP. Failure to abide by this requirement may (and most likely will) cause such proposer(s) to be eliminated from consideration for award.
- 4.2.4 **Evaluation:** The appointed evaluation committee at the HACB shall evaluate the responsive proposals submitted and award points pertaining to the Evaluation Factors. Upon final completion of the proposal evaluation process, the evaluation committee will forward the completed evaluations to the CO.
- 4.2.5 **Potential "Competitive Range" or "Best and Finals" Negotiations:** The HACB reserves the right to, as detailed within Section 7.2.N through Section 7.2.R of HUD Procurement Handbook 7460.8 REV 2, conduct a “Best and Finals” Negotiation, which may include oral interviews, with all firms deemed to be in the competitive range. Any firm deemed not to be in the competitive range shall be notified of such in writing by the HACB in a timely manner as possible, but in any case within no longer than 10 days after the beginning of such negotiations with the firms deemed to be in the competitive range.

4.3.6 Determination of Top-ranked Proposer(s): Typically, the points awarded by the evaluation committee will be tabulated to determine the final rankings, which is typically forwarded to the CEO for approval. If the evaluation was performed to the satisfaction of the CEO, the final rankings may be forwarded to the Housing Authority Board of Commissioners (BOC) at a scheduled meeting for approval. Contract negotiations may, at the HACB's option, be conducted prior to or after the BOC approval.

4.3.6.1 Ties: In the case of a tie in points awarded, 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.”

4.3.7 Restrictions: All persons having familial (including in-laws) and/or employment relationships (past or current) with principals and/or employees of a proposer entity will be excluded from participation on the HACB evaluation committee. Similarly, all persons having ownership interest in and/or contract with a proposer entity will be excluded from participation on the HACB evaluation committee.

5.0 CONTRACT AWARD.

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

5.1.1 By completing, executing and submitting a proposal, the “proposer is thereby agreeing to abide by all terms and conditions pertaining to this RFP as issued by the Agency, either in hard copy or on the noted eProcurement System,” including the contract clauses already attached as Attachments G and G-1 through G-3, each attached hereto. Accordingly, the Agency has no responsibility to conduct after the submittal deadline any negotiations pertaining to the contract clauses already published.

5.1.2 The HACB may award contract(s) to multiple bidders.

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

5.2.1 Contract Form. The Agency will not execute a contract on the Contractor's form—contracts will only be executed on the Agency form, and by submitting a proposal the Contractor agrees to do so. However, the Agency will during the RFP process (prior to the posted question deadline) consider any contract clauses that the proposer wishes to include therein and submits in writing a request for the Agency to do so; but the failure of the Agency to include such clauses does not give the Contractor the right to refuse to execute the Agency's contract form. It is the responsibility of each prospective proposer to notify the Agency, in writing, prior to submitting a proposal, of any contract clause that he/she is not willing to include in the final executed contract and abide by.

The Agency will consider and respond to such written correspondence, and if the prospective proposer is not willing to abide by the Agency's response (decision), then that prospective proposer shall be deemed ineligible to submit a proposal.

5.2.1.1 Please note that the HACB 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 RFP.

5.2.2 **Assignment of Personnel:** The HACB shall retain the right to demand and receive a change in personnel assigned to the work if the HACB believes that such change is in the best interest of the HACB 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 RFP (including, but not limited to, selling or transferring the contract) without the prior written consent of the CO. Any purported assignment of interest or delegation of duty, without the prior written consent of the CO shall be void and may result in the cancellation of the contract with the Agency, 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 CO.

5.3 **Contract Period.** The HACB anticipates that it will initially award a contract(s) for the period of one (1) year with the option, at the HACB's discretion, of four (4) additional one-year option periods, for a maximum total of 5 years.

5.4 **Licensing and Insurance Requirements.** Prior to award (but not as a part of the proposal submission) the *Contractor* will be required to provide:

5.4.1 **Workers Compensation Insurance.** An original certificate evidencing the proposer's current industrial (worker's compensation) insurance carrier and coverage amount;

5.4.2 **General Liability Insurance.** An original certificate evidencing General Liability coverage naming the Agency as an additional insured together with the appropriate endorsement to said policy reflecting the addition of the Agency 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 deductible of not greater than \$5,000);

- 5.4.3 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.
- 5.4.4 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 Brownsville, Cameron County, and/or the State of Texas.
- 5.4.5 Certificates/Profile of Firm Form.** Pertaining to the aforementioned (within Sections 5.4.1 through 5.4.5) 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 proposal submittal—we will garner the necessary documents from the successful proposer prior to contract execution)
- 5.5 Right to Negotiate Final Fees.** The Agency shall retain the right to negotiate the amount of fees that are paid to the contractor meaning the fees proposed by the top rated proposer may at the Agency's options be the basis for the beginning of negotiations. Such negotiations shall begin after the Agency has chosen a top rated proposer. If such negotiations are not in the opinion of the Agency successfully concluded within 5 business days the Agency shall retain the right to end such negotiations and begin negotiations with the next rated proposer. The Agency shall also retain the right to negotiate with and make an award to more than one proposer.
- 5.6 Contract Service Standards.** All work performed pursuant to this RFP must conform and comply with all applicable local, state and federal codes, statutes, laws and regulations.

ATTACHMENT A

Form of Proposal &
Proposal Bid Form

FORM OF PROPOSAL (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. Also, complete the Section 3 Statement and the Proposer's Statement as noted below:

X=ITEM INCLUDED	SUBMITTAL ITEMS (Three copies of each proposal, including one with original signatures).	
<input type="checkbox"/>	Tab 1	Form of Proposal and Proposal Bid Form (Attachment A)
<input type="checkbox"/>	Tab 2	Form HUD-5369-C (Attachment B) and Form HUD 5370-C (Attachment)
<input type="checkbox"/>	Tab 3	Profile of Firm Form (Attachment C)
<input type="checkbox"/>	Tab 4	Proposed Services
<input type="checkbox"/>	Tab 5	Managerial Capacity/Financial Viability, including resumes
<input type="checkbox"/>	Tab 6	Client Information
<input type="checkbox"/>	Tab 7	Equal Employment Opportunity Statement
<input type="checkbox"/>	Tab 8	Subcontractor/Joint Venture Information (Optional)
<input type="checkbox"/>	Tab 9	Section 3 Business Preference Documentation (Optional; Attachment D)
<input type="checkbox"/>	Tab 10	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. 9, 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 the HA discovers that any information entered herein to be false, such shall entitle the HA 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 within the noted Internet System, the undersigned proposer is thereby agreeing to abide by all terms and conditions pertaining to this RFP as issued by the HA, either in hard copy or on the noted Internet System, 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 the HA with the services described herein for the fee(s) entered within the areas provided within the noted Internet System pertaining to this RFP.

Signature	Date	Printed Name	Company
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ATTACHMENT B

Form HUD-5369-C

Certifications and Representations of Offerors

Non-Construction Contract

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

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

1. Contingent Fee Representation and Agreement

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

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

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

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

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

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

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

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

(Check the block applicable to you)

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

3. Certificate of Independent Price Determination

(a) The bidder/offeror certifies that—

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

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

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

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

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

4. Organizational Conflicts of Interest Certification

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

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

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

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

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

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

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

5. Authorized Negotiators (RFPs only)

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

6. Conflict of Interest

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

7. Offeror's Signature

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

Signature & Date:

Typed or Printed Name:

Title:

ATTACHMENT C

Profile of Firm Form

Request for Proposals (RFP) NO.24-001 - IT System Maintenance Services

**PROFILE OF FIRM FORM
(Attachment C)**

(This Form must be fully completed and placed under Tab No. 3 of the "hard copy" tabbed proposal submittal.)

- (1) Prime ____ Sub-contractor ____ (This form must be completed by and for each).
- (2) Name of Firm: _____ Telephone: _____ Fax: _____
- (3) Street Address, City, State, Zip: _____
- (4) Please attached a brief biography/resume of the company, including the following information:
 (a) Year Firm Established; (b) Year Firm Established in [JURISDICTION]; (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):

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

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

Caucasian American (Male) _____%
 Public-Held Corporation _____%
 Government Agency _____%
 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 or more of the following:

Resident-Owned* _____%
 African American _____%
 **Native American _____%
 Hispanic American _____%
 Asian/Pacific American _____%
 Hasidic Jew _____%
 Asian/Indian American _____%

Woman-Owned (MBE) _____%
 Woman-Owned (Caucasian) _____%
 Disabled Veteran _____%
 Other (Specify): _____%

WMBE Certification Number: _____

Certified by (Agency): _____

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

Signature Date Printed Name Company

ATTACHMENT D

Section 3 Forms

**SECTION 3 BUSINESS PREFERENCE DOCUMENTATION
(Attachment D)**

The Section 3 Clause

- 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 compliance with section 7(b).



Section 3 Contracting Preference

A business seeking to elect the *Section 3 Contracting Preference* shall self-certify or submit evidence that the business is a Section 3 Business. All contractors/subcontractors (contractors) claiming a Section 3 Preference in contracting must maintain that status throughout the life of the contract.

To receive a Section 3 Preference:

1. Contractors must certify as a Section 3 Business prior to, or at the time of the submission of bids, quotes, or proposals. To determine your status as a Section 3 Business, please answer the following questions:

I. Is your business 51% or more owned by a Section 3 Resident(s)? YES NO

*A **Section 3 Resident** is:

- 1) lives in Public Housing or Subsidized/Assisted Housing; or participates in the Housing Choice Voucher Program (Section 8); **-OR-**
- 2) lives in Brownsville, Texas, and meets one of the household income eligibility guidelines in the chart below:

Brownsville, Texas Income Guideline (FY 2022)								
Number of People in Household →	1	2	3	4	5	6	7	8
My household income is less than the amount listed for my household size.	\$23,850	\$27,250	\$30,650	\$34,050	\$36,800	\$39,500	\$42,250	\$44,950
My household income is within the range listed for my household size.	\$23,850- \$38,150	\$27,250- \$43,600	\$30,650- \$49,050	\$34,050- \$54,450	\$36,800- \$58,850	\$39,500- \$63,200	\$42,250- \$67,550	\$44,950- \$71,900

II. Do you employ, or will employ, 30% or more Section 3 Residents as permanent full-time employees? YES NO

III. Will you subcontract 25% or more of this contract to a qualified Section 3 Business? YES NO

* A **Section 3 Business** is:

- 1) A business that is 51% or more owned by Section 3 Resident(s); or,
- 2) A business that employs 30% or more Section 3 Residents (or were Section 3 Residents within the last 3 years) as permanent, full-time staff; or,
- 3) A business that commits to subcontract 25% of its original contract amount to other Section 3 Businesses.

- If you marked "YES" for any of the questions above, your business *qualifies* for the Section 3 Business Preference.
- If you marked "NO" for all of the questions above, your business *does not qualify* for the Section 3 Business Preference.

Once you have determined your Section 3 Business status, complete the attached Section 3 Business Status & Preference Request form and submit the form with your bid documents.

3. Contractors must sign the Section 3 Assurance which is included in the procurement package, regardless of the contract award. All required Section 3 forms must be submitted with your other proposal documents at the time of your bid. Proposals without the Section 3 Assurance and Section 3 Business Status & Preference Request form will be considered non-responsive and is grounds for rejection of the proposal.

4. Any HACB contract recipient, regardless of its Section 3 Business status, must comply with the Section 3 requirements when any hiring or contracting is essential to completing the work on the Section 3 project. HACB contract recipients must make their best efforts to offer any available opportunities to certified Section 3 Residents and Businesses. There is no waiver from this requirement. Any contractor found in violation of HACB Section 3 policy may have their contract terminated.



SECTION 3 BUSINESS STATUS and PREFERENCE REQUEST

Business Name _____ Main Phone () _____

Contact Person & Title _____ Cell Phone () _____

Business Address _____ FAX () _____

Street Address

Suite #

Email/Web _____

City

State

Zip Code

Type of Business Corporation Partnership Sole Proprietorship Joint Venture

Attach applicable documentation of evidence of formation of business entity:

- Copy of Business License Copy of Articles of Incorporation, if applicable Business Formation Documents
 Partnership Agreement Certificate of Good Standing

I am not certifying as a Section 3 Business. I acknowledge that I will not receive a Section 3 Contracting Preference, but I will comply with the requirements of Section 3 if a need to hire workers or subcontract any work to complete the project arises during the life of the project.

I do not qualify as a Section 3 Business. I will comply with the requirements of Section 3 if a need to hire workers or subcontract any work to complete the project arises during the life of the project.

I am certifying and requesting preference as the following type of Section 3 Business Concern (check one):

Section 3 Resident-Owned Business: 51% or more of this business is owned by Section 3 Residents.

Attach one of the following documentation as evidence:

- Copy of resident lease.
- Copy of evidence of participation in a public assistance program.
- Owner(s) signed Section 3 Resident Self-Certification.

Section 3 Resident Employed Business: 30% or more of my permanent, full-time employees are current Section 3 Residents or were within the past 3 years; **or**, I will employ (*within 10 days of contract start date*) 30% Section 3 Residents as newly hired workforce for this contract and throughout the entire contract period.

Attach all of the following documentation as evidence:

- List of all current full-time employees.
- List of employees with Section 3 status & a Section 3 Resident Self-Certification (Form S3-R) for each.
- If employing 30% Section 3 Residents, provide number of available new jobs for this project, and every effort you will use to notify and offer these jobs to Section 3 Residents (ex. Post signs at public housing sites, request list of qualified Section 3 Residents from Section 3 database, run ads in local papers, etc.).

Subcontract to Section 3 Businesses: I can provide evidence of a commitment to subcontract 25% or more of the dollar amount awarded to qualified Section 3 Businesses.

Attach the following documentation as evidence:

- List of subcontracted Section 3 Business(es) and the subcontract amount.

Evidence of ability to perform successfully under the terms and conditions of the proposed contract (at least one):

- Current financial statement List of owned equipment
 Statement of ability to comply with public policy List of all contracts for the past 2 years

I certify that the information provided above is true and complete to the best of my knowledge.

Corporate Seal

Authorized Signature

Notary

Printed Name and Title

Term Expires

NOTE: This document must be submitted with bid documents.



SECTION 3 ASSURANCES

We, the undersigned _____ (Representative), as official representative of _____ (Business) agree to comply with Section 3 requirements for the _____ (Project Name). It is understood that failure to comply may result in the following sanctions: cancellation, termination, or suspension in whole or in part of this contract.

Estimated Project Workforce Breakdown: Please provide estimates of hiring needs below.

Job Category	Total Estimated Positions Needed to Complete Project	Number of Positions Occupied by Current Employees	Number of Available Positions for New Hires	Number of Positions To be Filled with Section 3 Residents*
Supervisor				
Professional				
Technical				
Office/Clerical				
Others				
TRADE:				
Journeypersons				
Apprentices				
Trainees				
Others				
TRADE:				
Journeypersons				
Apprentices				
Trainees				
Other				

Proposed Contracts/Subcontracts Breakdown: Please provide estimates of contracting needs below.

Type of Contract (Business or Professional)	Total Number	Total Approximate Dollar Amount	Estimated Number of Contracts to Section 3 Businesses	Estimated Dollar Amount to Section 3 Businesses

Signature of Person Completing Form

Date

Printed Name and Title

NOTE: This document must be submitted with bid documents.



SECTION 3 AFFIRMATIVE ACTION PLAN

_____ (Contractor) agrees to comply with the requirements of Section 3 of the HUD Act of 1968¹ (Section 3) by assuring, *to the greatest extent feasible*, that:

1. Training and employment opportunities will be directed to qualified Section 3 Residents as provided by the HACB order of providing preferences for hiring, with a hiring goal of 30%; and,
2. Contracts for work in connection with this project will be awarded to qualified Section 3 Businesses as provided by the HACB order of providing preferences for awarding contracts, with a contracting goal of 10% for construction trades work, and 3% for non-construction work.

_____ (Contractor) will initiate the following actions to insure utilization of Section 3 Residents as employees or trainees and to incorporate Section 3 Businesses as subcontractors and suppliers:

1. The Contractor will establish and maintain a directory of service organizations, job referral agencies and manpower training programs operating within, or servicing, project area residents.
2. The Contractor will submit prior to the award of a contract, a signed assurance that it will comply with Section 3 regulations and requirements.
3. The Contractor will provide, prior to the signing of a contract, a Statement of work force needs, including trainee positions.
4. The Contractor will notify Community based organizations of available employment opportunities, and shall maintain records of response from such organizations.
5. The Contractor will make continuing personal recruitment efforts directed to such service organizations and to schools with lower income resident training programs with which he is familiar.
6. The Contractor will maintain a file of the names and addresses of each low income resident worker referred to him and that action was taken with respect to each such referred worker and, if the worker was not employed the reasons therefore. (Attached.)
7. The Contractor will include the Section 3 clause in every subcontract for work in connection with H.U.D. projects. (Attached.)
8. For each subcontract, the Prime Contractor will submit, prior to Contract award, the Section 3 Affirmative Action Plans of its subcontractors.
9. The Contractor will not attempt to circumvent Section 3 Provisions.
10. The Contractor will make a good faith effort to employ or fill training positions with lower income project area residents, it will, as a minimum, provide evidence of the following:
 - Attempts to recruit from the project area through local advertising media, community organizations, public and private agencies operating within or serving the project area, such as the Department of Labor Employment Department, and the Private Industry Council.
 - Maintain a list of all lower income area residents who have applied either on their own or on referral from any source, and that he has employed such persons if otherwise qualified and if an opening exists.
11. The Contractor will make good faith effort to incorporate project area businesses as Subcontractors and Suppliers.
12. The Contractor will provide the Section 3 workforce and business utilization reports required under this contract.

Authorized Signature _____ Date: _____

Printed Name and Title _____

Business Name _____

NOTE: This document must be submitted with bid documents.

¹At 12 USC 1701u, and implemented by 24 CFR 135.



(Attachment D)

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 bidder. “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



ATTACHMENT E

Form HUD-5369-B

Instructions to Offerors Non-Construction

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



- 03291 -

1. Preparation of Offers

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

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

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

2. Submission of Offers

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

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

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

3. Amendments to Solicitations

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

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

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

4. Explanation to Prospective Offerors

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

5. Responsibility of Prospective Contractor

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

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

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

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

6. Late Submissions, Modifications, and Withdrawal of Offers

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

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

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

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

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

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

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

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

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

7. Contract Award

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

(b) The HA may

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

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

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

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

8. Service of Protest

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

9. Offer Submission

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

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

[Describe bid or proposal preparation instructions here:]

ATTACHMENT F

Form HUD-5370-C

General Conditions for Non-Construction Contracts

Section I – (With or without Maintenance Work)

U.S. Department of Housing and Urban Development

Office of Public and Indian Housing

Office of Labor Relations

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

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

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

- 1) **Non-construction contracts** (*without* maintenance) **greater than \$105,000 - use Section I;**
- 2) **Maintenance contracts** (including nonroutine maintenance as defined at 24 CFR 968.105) **greater than \$2,000 but not more than \$150,000 - use Section II;** and
- 3) **Maintenance contracts** (including nonroutine maintenance), **greater than \$150,000 – use Sections I and II.**

Section I - Clauses for All Non-Construction Contracts greater than \$150,000

1. Definitions

The following definitions are applicable to this contract:

- (a) "Authority or Housing Authority (HA)" means the Housing Authority.
- (b) "Contract" means the contract entered into between the Authority and the Contractor. It includes the contract form, the Certifications and Representations, these contract clauses, and the scope of work. It includes all formal changes to any of those documents by addendum, Change Order, or other modification.
- (c) "Contractor" means the person or other entity entering into the contract with the Authority to perform all of the work required under the contract.
- (d) "Day" means calendar days, unless otherwise stated.
- (e) "HUD" means the Secretary of Housing and Urban development, his delegates, successors, and assigns, and the officers and employees of the United States Department of Housing and Urban Development acting for and on behalf of the Secretary.

2. Changes

- (a) The HA may at any time, by written order, and without notice to the sureties, if any, make changes within the general scope of this contract in the services to be performed or supplies to be delivered.
- (b) If any such change causes an increase or decrease in the hourly rate, the not-to-exceed amount of the contract, or the time required for performance of any part of the work under this contract, whether or not changed by the order, or otherwise affects the conditions of this contract, the HA shall make an equitable adjustment in the not-to-exceed amount, the hourly rate, the delivery schedule, or other affected terms, and shall modify the contract accordingly.
- (c) The Contractor must assert its right to an equitable adjustment under this clause within 30 days from the date of receipt of the written order. However, if the HA decides that the facts justify it, the HA may receive and act upon a

- proposal submitted before final payment of the contract.
- (d) Failure to agree to any adjustment shall be a dispute under clause Disputes, herein. However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.
- (e) No services for which an additional cost or fee will be charged by the Contractor shall be furnished without the prior written consent of the HA.

3. Termination for Convenience and Default

- (a) The HA may terminate this contract in whole, or from time to time in part, for the HA's convenience or the failure of the Contractor to fulfill the contract obligations (default). The HA shall terminate by delivering to the Contractor a written Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, the Contractor shall: (i) immediately discontinue all services affected (unless the notice directs otherwise); and (ii) deliver to the HA all information, reports, papers, and other materials accumulated or generated in performing this contract, whether completed or in process.
- (b) If the termination is for the convenience of the HA, the HA shall be liable only for payment for services rendered before the effective date of the termination.
- (c) If the termination is due to the failure of the Contractor to fulfill its obligations under the contract (default), the HA may (i) require the Contractor to deliver to it, in the manner and to the extent directed by the HA, any work as described in subparagraph (a)(ii) above, and compensation be determined in accordance with the Changes clause, paragraph 2, above; (ii) take over the work and prosecute the same to completion by contract or otherwise, and the Contractor shall be liable for any additional cost incurred by the HA; (iii) withhold any payments to the Contractor, for the purpose of off-set or partial payment, as the case may be, of amounts owed to the HA by the Contractor.
- (d) If, after termination for failure to fulfill contract obligations (default), it is determined that the Contractor had not failed, the termination shall be deemed to have been effected for the convenience of the HA, and the Contractor shall be entitled to payment as described in paragraph (b) above.
- (e) Any disputes with regard to this clause are expressly made subject to the terms of clause titled Disputes herein.

4. Examination and Retention of Contractor's Records

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

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

5. Rights in Data (Ownership and Proprietary Interest)

The HA shall have exclusive ownership of, all proprietary interest in, and the right to full and exclusive possession of all information, materials and documents discovered or produced by Contractor pursuant to the terms of this Contract, including but not limited to reports, memoranda or letters concerning the research and reporting tasks of this Contract.

6. Energy Efficiency

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

7. Disputes

- (a) All disputes arising under or relating to this contract, except for disputes arising under clauses contained in Section III, Labor Standards Provisions, including any claims for damages for the alleged breach there of which are not disposed of by agreement, shall be resolved under this clause.
- (b) All claims by the Contractor shall be made in writing and submitted to the HA. A claim by the HA against the Contractor shall be subject to a written decision by the HA.
- (c) The HA shall, with reasonable promptness, but in no event in no more than 60 days, render a decision concerning any claim hereunder. Unless the Contractor, within 30 days after receipt of the HA's decision, shall notify the HA in writing that it takes exception to such decision, the decision shall be final and conclusive.
- (d) Provided the Contractor has (i) given the notice within the time stated in paragraph (c) above, and (ii) excepted its claim relating to such decision from the final release, and (iii) brought suit against the HA not later than one year after receipt of final payment, or if final payment has not been made, not later than one year after the Contractor has had a reasonable time to respond to a written request by the HA that it submit a final voucher and release, whichever is earlier, then the HA's decision shall not be final or conclusive, but the dispute shall be determined on the merits by a court of competent jurisdiction.
- (e) The Contractor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under the contract, and comply with any decision of the HA.

8. Contract Termination; Debarment

A breach of these Contract clauses may be grounds for termination of the Contract and for debarment or denial of participation in HUD programs as a Contractor and a subcontractor as provided in 24 CFR Part 24.

9. Assignment of Contract

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

10. Certificate and Release

Prior to final payment under this contract, or prior to settlement upon termination of this contract, and as a condition precedent thereto, the Contractor shall execute and deliver to the HA a certificate and release, in a form acceptable to the HA, of all claims against the HA by the Contractor under and by virtue of this contract, other than such claims, if any, as may be specifically excepted by the Contractor in stated amounts set forth therein.

11. Organizational Conflicts of Interest

- (a) The Contractor warrants that to the best of its knowledge and belief and except as otherwise disclosed, it does not have any organizational conflict of interest which is defined as a situation in which the nature of work under this contract and a contractor's organizational, financial, contractual or other interests are such that:
 - (i) Award of the contract may result in an unfair competitive advantage; or
 - (ii) The Contractor's objectivity in performing the contract work may be impaired.
- (b) The Contractor agrees that if after award it discovers an organizational conflict of interest with respect to this contract or any task/delivery order under the contract, he or she shall make an immediate and full disclosure in writing to the Contracting Officer which shall include a description of the action which the Contractor has taken or intends to take to eliminate or neutralize the conflict. The HA may, however, terminate the contract or task/delivery order for the convenience of the HA if it would be in the best interest of the HA.
- (c) In the event the Contractor was aware of an organizational conflict of interest before the award of this contract and intentionally did not disclose the conflict to the Contracting Officer, the HA may terminate the contract for default.
- (d) The terms of this clause shall be included in all subcontracts and consulting agreements wherein the work to be performed is similar to the service provided by the prime Contractor. The Contractor shall include in such subcontracts and consulting agreements any necessary provisions to eliminate or neutralize conflicts of interest.

12. Inspection and Acceptance

- (a) The HA has the right to review, require correction, if necessary, and accept the work products produced by the Contractor. Such review(s) shall be carried out within 30 days so as to not impede the work of the Contractor. Any

product of work shall be deemed accepted as submitted if the HA does not issue written comments and/or required corrections within 30 days from the date of receipt of such product from the Contractor.

- (b) The Contractor shall make any required corrections promptly at no additional charge and return a revised copy of the product to the HA within 7 days of notification or a later date if extended by the HA.
- (c) Failure by the Contractor to proceed with reasonable promptness to make necessary corrections shall be a default. If the Contractor's submission of corrected work remains unacceptable, the HA may terminate this contract (or the task order involved) or reduce the contract price or cost to reflect the reduced value of services received.

13. Interest of Members of Congress

No member of or delegate to the Congress of the United States of America or Resident Commissioner shall be admitted to any share or part of this contract or to any benefit to arise there from, but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit.

14. Interest of Members, Officers, or Employees and Former Members, Officers, or Employees

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

15. Limitation on Payments to Influence Certain Federal Transactions

(a) Definitions. As used in this clause:

"Agency", as defined in 5 U.S.C. 552(f), includes Federal executive departments and agencies as well as independent regulatory commissions and Government corporations, as defined in 31 U.S.C. 9101(1).

"Covered Federal Action" means any of the following Federal actions:

- (i) The awarding of any Federal contract;
- (ii) The making of any Federal grant;
- (iii) The making of any Federal loan;
- (iv) The entering into of any cooperative agreement; and,
- (v) The extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

Covered Federal action does not include receiving from an agency a commitment providing for the United States to insure or guarantee a loan.

"Indian tribe" and "tribal organization" have the meaning provided in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450B). Alaskan Natives are included under the definitions of Indian tribes in that Act.

"Influencing or attempting to influence" means making, with the intent to influence, any communication to or appearance before an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any covered Federal action.

"Local government" means a unit of government in a State and, if chartered, established, or otherwise recognized by a State for the performance of a governmental duty, including a local public authority, a special district, an intrastate district, a council of governments, a sponsor group representative organization, and any other instrumentality of a local government.

"Officer or employee of an agency" includes the following individuals who are employed by an agency:

- (i) An individual who is appointed to a position in the Government under title 5, U.S.C., including a position under a temporary appointment;
- (ii) A member of the uniformed services as defined in section 202, title 18, U.S.C.;
- (iii) A special Government employee as defined in section 202, title 18, U.S.C.; and,
- (iv) An individual who is a member of a Federal advisory committee, as defined by the Federal Advisory Committee Act, title 5, appendix 2.

"Person" means an individual, corporation, company, association, authority, firm, partnership, society, State, and local government, regardless of whether such entity is operated for profit or not for profit. This term excludes an Indian tribe, tribal organization, or other Indian organization with respect to expenditures specifically permitted by other Federal law.

"Recipient" includes all contractors, subcontractors at any tier, and subgrantees at any tier of the recipient of funds received in connection with a Federal contract, grant, loan, or cooperative agreement. The term excludes an Indian tribe, tribal organization, or any other Indian organization with respect to expenditures specifically permitted by other Federal law.

"Regularly employed means, with respect to an officer or employee of a person requesting or receiving a Federal contract, grant, loan, or cooperative agreement, an officer or employee who is employed by such person for at least 130 working days within one year immediately preceding the date of the submission that initiates agency consideration of such person for receipt of such contract, grant, loan, or cooperative agreement. An officer or employee who is employed by such person for less than 130 working days within one year immediately preceding the date of submission that initiates agency consideration of such person shall be considered to be regularly employed as soon as he or she is employed by such person for 130 working days.

"State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, an agency or instrumentality of a State, and a multi-State, regional, or interstate entity having governmental duties and powers.

(b) Prohibition.

- (i) Section 1352 of title 31, U.S.C. provides in part that no appropriated funds may be expended by the recipient of a Federal contract, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered Federal actions: the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(ii) The prohibition does not apply as follows:

(1) Agency and legislative liaison by Own Employees.

(a) The prohibition on the use of appropriated funds, in paragraph (i) of this section, does not apply in the case of a payment of reasonable compensation made to an officer or employee of a person requesting or receiving a Federal contract, grant, loan, or cooperative agreement, if the payment is for agency and legislative activities not directly related to a covered Federal action.

(b) For purposes of paragraph (b)(i)(1)(a) of this clause, providing any information specifically requested by an agency or Congress is permitted at any time.

(c) The following agency and legislative liaison activities are permitted at any time only where they are not related to a specific solicitation for any covered Federal action:

(1) Discussing with an agency (including individual demonstrations) the qualities and characteristics of the person's products or services, conditions or terms of sale, and service capabilities; and,

(2) Technical discussions and other activities regarding the application or adaptation of the person's products or services for an agency's use.

(d) The following agency and legislative liaison activities are permitted where they are prior to formal solicitation of any covered Federal action:

(1) Providing any information not specifically requested but necessary for an agency to make an informed decision about initiation of a covered Federal action;

(2) Technical discussions regarding the preparation of an unsolicited proposal prior to its official submission; and

(3) Capability presentations by persons seeking awards from an agency pursuant to the provisions of the Small Business Act, as amended by Public Law 95-507 and other subsequent amendments.

(e) Only those activities expressly authorized by subdivision (b)(ii)(1)(a) of this clause are permitted under this clause.

(2) Professional and technical services.

(a) The prohibition on the use of appropriated funds, in subparagraph (b)(i) of this clause, does not apply in the case of-

(i) A payment of reasonable compensation made to an officer or employee of a person requesting or receiving a covered Federal action or an extension, continuation, renewal, amendment, or modification of a covered Federal action, if payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action.

(ii) Any reasonable payment to a person, other than an officer or employee of a

person requesting or receiving a covered Federal action or an extension, continuation, renewal, amendment, or modification of a covered Federal action if the payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action. Persons other than officers or employees of a person requesting or receiving a covered Federal action include consultants and trade associations.

(b) For purposes of subdivision (b)(ii)(2)(a) of clause, "professional and technical services" shall be limited to advice and analysis directly applying any professional or technical discipline.

(c) Requirements imposed by or pursuant to law as a condition for receiving a covered Federal award include those required by law or regulation, or reasonably expected to be required by law or regulation, and any other requirements in the actual award documents.

(d) Only those services expressly authorized by subdivisions (b)(ii)(2)(a)(i) and (ii) of this section are permitted under this clause.

(iii) Selling activities by independent sales representatives.

(c) The prohibition on the use of appropriated funds, in subparagraph (b)(i) of this clause, does not apply to the following selling activities before an agency by independent sales representatives, provided such activities are prior to formal solicitation by an agency and are specifically limited to the merits of the matter:

(i) Discussing with an agency (including individual demonstration) the qualities and characteristics of the person's products or services, conditions or terms of sale, and service capabilities; and

(ii) Technical discussions and other activities regarding the application or adaptation of the person's products or services for an agency's use.

(d) Agreement. In accepting any contract, grant, cooperative agreement, or loan resulting from this solicitation, the person submitting the offer agrees not to make any payment prohibited by this clause.

(e) Penalties. Any person who makes an expenditure prohibited under paragraph (b) of this clause shall be subject to civil penalties as provided for by 31 U.S.C. 1352. An imposition of a civil penalty does not prevent the Government from seeking any other remedy that may be applicable.

(f) Cost Allowability. Nothing in this clause is to be interpreted to make allowable or reasonable any costs which would be unallowable or unreasonable in accordance with Part 31 of the Federal Acquisition Regulation (FAR), or OMB Circulars dealing with cost allowability for recipients of assistance agreements. Conversely, costs made specifically unallowable by the requirements in this clause will not be made allowable under any of the provisions of FAR Part 31 or the relevant OMB Circulars.

16. Equal Employment Opportunity

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

- (a) The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin.
- (b) The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to (1) employment; (2) upgrading; (3) demotion; (4) transfer; (5) recruitment or recruitment advertising; (6) layoff or termination; (7) rates of pay or other forms of compensation; and (8) selection for training, including apprenticeship.
- (c) The Contractor shall post in conspicuous places available to employees and applicants for employment the notices to be provided by the Contracting Officer that explain this clause.
- (d) The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
- (e) The Contractor shall send, to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, the notice to be provided by the Contracting Officer advising the labor union or workers' representative of the Contractor's commitments under this clause, and post copies of the notice in conspicuous places available to employees and applicants for employment.
- (f) The Contractor shall comply with Executive Order 11246, as amended, and the rules, regulations, and orders of the Secretary of Labor.
- (g) The Contractor shall furnish all information and reports required by Executive Order 11246, as amended and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto. The Contractor shall permit access to its books, records, and accounts by the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (h) In the event of a determination that the Contractor is not in compliance with this clause or any rule, regulation, or order of the Secretary of Labor, this contract may be canceled, terminated, or suspended in whole or in part, and the Contractor may be declared ineligible for further Government contracts, or federally assisted construction contracts under the procedures authorized in Executive Order 11246, as amended. In addition, sanctions may be imposed and remedies invoked against the Contractor as provided in Executive Order 11246, as amended, the rules, regulations, and orders of the Secretary of Labor, or as otherwise provided by law.
- (i) The Contractor shall include the terms and conditions of this clause in every subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor issued under Executive Order 11246, as amended, so that these terms and conditions will be binding upon each subcontractor or vendor. The Contractor shall take such action with respect to any subcontractor or purchase order as the Secretary of 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.

17. Dissemination or Disclosure of Information

No information or material shall be disseminated or disclosed to the general public, the news media, or any person or organization without prior express written approval by the HA.

18. Contractor's Status

It is understood that the Contractor is an independent contractor and is not to be considered an employee of the HA, or assume any right, privilege or duties of an employee, and shall save harmless the HA and its employees from claims suits, actions and costs of every description resulting from the Contractor's activities on behalf of the HA in connection with this Agreement.

19. Other Contractors

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

20. Liens

The Contractor is prohibited from placing a lien on HA's property. This prohibition shall apply to all subcontractors.

21. Training and Employment Opportunities for Residents in the Project Area (Section 3, HUD Act of 1968; 24 CFR 135)

- (a) The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- (b) The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 135 regulations.
- (c) The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of

apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

- (d) The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.
- (e) The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR Part 135.
- (f) Noncompliance with HUD's regulations in 24 CFR Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

22. Procurement of Recovered Materials

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