RFQ 20-04

Request for Qualification:
General Architectural and
Engineering Services

Housing Authority of the Birmingham District

The Housing Authority of the Birmingham District (HABD) is seeking submissions from qualified firms to provide General Architectural and Engineering Service.

Issue Date: February 28, 2020
Pre-Proposal Conference Date: March 16, 2020
Time: 10:00 a.m. CST
Submission Deadline: March 29, 2020
Time: 2:00 p.m. CST

Contracting Officer:

Michael O. Lundy, President/CEO
TO: Prospective Offerors

REQUEST FOR QUALIFICATION: 20-04

SEPARATE SEALED SUBMISSION FOR: General Architectural and Engineering Services

PRE-SUBMITTAL CONFERENCE DATE/TIME: March 16, 2020 / 10:00 A.M. CST

LOCATION: HABD Central Office
            Central Meeting Room
            1826 Third Avenue South
            Birmingham, AL 35233-1905

SUBMISSIONS WILL BE RECEIVED AT: HABD Central Office
                                  Director of Procurement
                                  1826 Third Avenue South
                                  Birmingham, AL 35233-1905

CLOSING DATE: March 29, 2020

TIME: 2:00 P.M. CST

LOCATION: HABD Central Office
          Director of Procurement
          1826 Third Avenue South
          Birmingham, AL 35233-1905

By submitting the offeror agrees, if the offeror’s submission is accepted, to enter into an agreement with the Housing Authority of the Birmingham District (HABD), to complete all work as specified or indicated in the agreement documents. The offeror further accepts the terms and conditions of the RFQ.

Submissions must be prepared in accordance with the section entitled “Form of Response,” and will be evaluated by the HABD. Evaluation will be based on the criteria within this RFQ.

Copies of the RFQ, which includes the scope of services, conditions and requirements, may be obtained from the HABD Procurement Office located at the address listed above. Persons who require special accommodations should immediately contact the HABD Procurement Office at (205) 521-0611.

The HABD reserves the right to accept or reject any or all submissions, or any submissions, and to waive any informalities or irregularities.

The HABD in accordance with the Executive Orders 11625 and 12138 promotes participation by businesses owned and operated by disadvantaged and historically underutilized businesses. Section 3 business requirements must also be met.

A copy of this solicitation is available at www.habd.org under the Procurement Section. Questions regarding the attached RFQ should be directed to the Director of Procurement, in writing ten (10) days prior to proposal due date. Questions received after the deadline will not be answered.
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I. SOLICITATION TYPE AND DESCRIPTION

A. Request for Qualifications (RFQ) for General Architectural and Engineering (A & E) Services

B. Date Issued: February 28, 2020

C. Pre-submission meeting will be held on March 16, 2020 at 10:00 A.M. CST at the HABD Central Office Meeting Room located at 1826 Third Avenue South Birmingham, AL 35233.

D. Description of Services: The Housing Authority of the Birmingham District (HABD) intends to award contracts to firm(s) to provide architectural services for several projects at a variety of properties and communities. Services will include, but are not limited to, typical A & E services.

E. Sealed submissions (One electronic copy, one original copy and three copies of the submission) are due at the following location no later than 2:00 p.m. Central Standard Time on March 29, 2020.

Housing Authority of the Birmingham District
1826 Third Avenue South
Birmingham, Alabama 35233
Attn: Carl M. Edwards, Director of Procurement

The envelope must have the following notation on the bottom left-hand corner of the submission, “Submission for: General Architectural and Engineering Services.

Submissions submitted by email and or fax, will not be accepted! Please note that all submissions will be retained by HABD for three years from the date of the award of the submissions for audit purposes.

F. HABD reserves the right to reject any and/or all submissions, or to waive any informality in the process. Submissions received after the deadline will not be considered. Any firm submitting a late submission will be so notified. All material submitted in the submission becomes the property of HABD and will not be returned.

CAUTION: LATE SUBMISSIONS WILL BE HANDLED IN ACCORDANCE WITH THE PROVISIONS IN THE INSTRUCTIONS TO BIDDERS

G. Deadline for Written Questions:

All questions pertaining to this Request for Qualifications must be submitted in writing at least ten (10) days before the due date. Written questions may be submitted by email, to the Director of Procurement, Mr. Carl M. Edwards, at cedwards@habd.net by fax to (205) 521-7704. HABD will only respond to written questions and only be bound by its response to written questions. Oral communications are discouraged, and HABD will not be bound by any oral answers or interpretations of the Request for Submissions. In order to maintain a fair and impartial competitive process, HABD can answer questions only in response to written questions received within the specified time frame. HABD must avoid private communication with the prospective proposers during the evaluation period. The written questions will be the only opportunity for proposers to ask questions as to form and content. The addendum will be available on HABD’s website at www.habd.org (Procurement).
Please respect this policy and do not attempt to query HABD personnel or members of its Board of Commissioners regarding this RFQ except through written questions submitted in the manner and within the time frame indicated above.

H. For information regarding submission documents contact:

Mr. Carl M. Edwards, Director of Procurement
Housing Authority of the Birmingham District
1826 Third Avenue South
Birmingham, AL 35233
Telephone: (205) 521-0611
Email: cedwards@habd.net

Remainder of this page left blank intentionally
II. INTRODUCTION

In compliance with 2 CFR 200.317-326, the HABD has a requirement for professional qualified Architectural/Engineering firm. This solicitation includes services for design, engineering, construction and minor/major rehab activities of existing and newly acquired properties. HABD anticipates making an award to the most qualified firm(s), with work assigned through the task order process.

The Housing Authority of the Birmingham District (HABD) is a very large Public Housing Agency with approximately (5039) conventional public housing units located at fourteen (14) sites within the Birmingham city limits. The HABD additionally administers a Section 8 program which consists of approximately (5241) units.

The HABD was incorporated in 1935 and in 1937 to begin participation under the provisions of the United States Housing Act of 1937. The HABD is governed by a (5) member Board of Commissioners. The Mayor of the City of Birmingham appoints members of the governing board for staggered terms; they, in turn, elect a Chairperson and Vice Chairperson. The Board members also appoint a President/CEO to administer the affairs of the Authority.

HABD intends to award contracts to firm(s) to provide architectural services for various projects at a variety of properties and communities. Services will include, but are not limited to, typical Architectural & Engineering services. Your response to the Scope of Work must be complete, as it will become part of any contractual agreement. We appreciate the investment of time and resources firms are making by participating in this process. All submitted submissions shall be evaluated for responsiveness to the requirements of the Request for Qualification ("RFQ"). Those bids not in accordance with the RFQ shall be deemed non-responsive and eliminated from further evaluation.

III. RFQ INFORMATION AT A GLANCE

| HOW TO OBTAIN THE RFQ DOCUMENTS | Available on February 28, 2020 at 9:00 a.m. CST  
Housing Authority of the Birmingham District  
1826 Third Avenue South, Birmingham, AL 35233 |
|-----------------------------|---------------------------------------------------------|
| HOW TO OBTAIN THE RFQ DOCUMENTS ON THE WEBSITE | Access: www.habd.org  
Click on the “Procurement” Link |
| PRE-QUALIFICATION CONFERENCE | March 16, 2020 at 10:00 a.m. CST  
1826 Third Avenue South Birmingham, AL 35233 in the HABD Central Office Meeting Room |
| DESCRIPTION OF SERVICES | Housing Authority of the Birmingham District is seeking qualification submittals from professional, qualified licensed entities to provide Architectural and Engineering Services. |
| QUALIFICATION SUBMITTAL RETURN & DEADLINE | March 29, 2020 at 2:00 p.m. CST  
Housing Authority of the Birmingham District  
1826 Third Avenue South Birmingham, AL 35233  
*(The “hard copy” bid must be received in hand and time stamped by HABD by no later than 2:00 p.m. CST on this date). |
| ANTICIPATED APPROVAL BY HABD BOARD OF COMMISSIONERS | TBD |
IV. GENERAL INFORMATION

A. **Statement of Purpose:** The HABD and its affiliated entities are seeking submissions from qualified, licensed entities to provide A & E Services for projects at various properties and communities. Services will include, but are not limited to typical A & E Services pertaining to assessment, design and rehabilitation of commercial properties and residential housing and multi-family communities with the goal to build more livable and sustainable communities and protect the value of existing assets.

B. Prospective respondents acknowledge by downloading and receiving the RFQ documents and/or by submitting a response to HABD is not a right by which to be awarded a contract. A submission is an offer by the prospective respondent to perform the requirements of the RFQ documents in the event HABD decides to consider to award a contract to that respondent.

C. **Non-Mandatory Pre-Submission Conference:** The pre-submission conference will be held at the time date and location indicated herein. The purpose of this conference is to assist prospective Respondents in the full understanding of the RFQ documents so Respondents are confident in submitting an appropriate submission; therefore, at this conference, HABD will conduct an overview of the RFQ documents, including attachments. Because the purpose of this conference is to review the RFQ documents, attendees should bring a copy of the RFQ documents to this conference. **HABD will not distribute at this conference any copies of the RFQ documents.** Questions concerning the contents of the project and procedural aspects of the RFQ may be answered at this time; however, technical questions are required to be delivered in writing prior to a response. Any questions not answered during the conference will be responded to in writing and an addendum posted on HABD’s website: [www.HABD.org](http://www.HABD.org). All prospective Respondents are encouraged to attend. Any questions or requests for additional information must be submitted in writing ten (10) days prior to submission deadline.

D. **Submission:** Refer to the RFQ Information at a Glance page for submission date, time and location. Late Qualifications will not be accepted.

E. **Respondent’s Responsibilities-Contact with HABD:** It is the responsibility of the proposer to address all communication and correspondences pertaining to this RFQ only to the contact person listed in the Information at a Glance page. Proposers must not make inquiry or communicate with any other HABD 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 HABD to not consider a submission submittal received from any proposer who has not followed this directive. During the RFQ solicitation process, the HABD will not conduct any ex parte conversations which may give one prospective proposer an advantage over other prospective proposers.

V. HABD’S RESERVATION OF RIGHTS

A. HABD reserves the right to reject any or all submissions, to waive any informality, or to terminate the RFQ process at any time, if deemed by HABD to be in its best interests.

B. HABD reserves the right not to award a contract pursuant to this RFQ and issue subsequent RFQ’s if it is determined to be in HABD’s best interest.

C. HABD reserves the right to retain all submissions submitted and not permit withdrawal for a period of 90 days subsequent to the deadline for receiving submissions without the written consent from HABD.

D. HABD reserves the right to negotiate the fees proposed by all Respondents. If such negotiations are not, in the opinion of HABD successfully concluded within a reasonable timeframe as determined by HABD, then HABD retains the right to end such negotiations.
E. HABD reserves the right to reject and not consider any submission that does not meet the requirements of this RFQ, including but not necessarily limited to incomplete submissions and/or submissions offering alternate or non-requested services, submissions deemed non-responsive, Respondents deemed not responsible and conditional submissions (ex. “All or None”).

F. HABD shall have no obligation to compensate any Respondent for any costs incurred in responding to this RFQ.

G. HABD reserves the right to at any time during the RFQ or contract process to prohibit any further participation by a Respondent or reject any submission submitted that does not conform to any of the requirements detailed herein. Each prospective Respondent further agrees that he/she will inform HABD’s Contract Administrator (CA) in writing within five (5) days of the discovery of any item that is issued thereafter by HABD that he/she feel need to be addressed. Failure to abide by this timeframe shall relieve HABD, but not the prospective Respondent, of any responsibility pertaining to such issue.

H. HABD reserves the right, prior to award, to revise, change, alter or amend any of the instructions, terms, conditions, and/or specifications identified within the RFQ documents issued, within any attachment or drawing, or within any addenda issued. All addenda will be posted on HABD’s website www.HABD.org. Such changes that are issued before the submission deadline shall be binding upon all prospective Respondents.

I. HABD reserves the right to reduce or increase estimated or actual quantities in whatever amount necessary without prejudice or liability to HABD, if:

J. Funding is not available,

K. Legal restrictions are placed upon the expenditure of monies for this category of service or supplies; or,

L. HABD’s requirements in good faith change after award of the contract.

M. HABD reserves the right to make an award to more than one Respondent.

N. HABD reserves the right to require additional information from any Respondent to assist in its evaluation. The information shall be submitted in the form required by HABD within two (2) days of written request or submission shall be deemed non-responsive.

O. HABD reserves the right to require the Contractor to keep accurate timesheets for all employees assigned to perform any project, task, or assignment resulting from this RFQ and any resulting contract.

P. HABD reserves the right to contact any individuals, entities, or organizations that have had a business relationship with the Respondent regardless of their inclusion in the reference section of the submission submittal.

VI. SCOPE OF SUBMISSION:

A. HABD is seeking submissions from qualified, licensed entities to provide the following Professional A & E related services for potential projects at various properties and communities throughout HABD’s portfolios. Services will include, but are not limited to typical A & E Services pertaining to assessment, design, demolition, and rehabilitation of commercial properties, residential housing and
communities with the goal to build more livable and sustainable communities and to protect the integrity of existing assets.

B. General Specifications: HABD intends to award multiple contracts to firms to provide architectural/engineering services for various projects. HABD plans to upgrade, rehabilitate, repair, stabilize, and/or modernize. HABD desires the firms to be comprehensive engineering firms or teams consisting of a lead firm with a team of subcontracted engineering firms to cover the major engineering specialties. Services will include, but are not limited to, typical A & E Services.

C. Design Product: The design product shall meet all State and Federal requirements as well as all City of Birmingham Building Code requirements and shall conform with all applicable local codes, ordinances, regulations and standards, including HUD's Section 504 program; UFAS, ADA and ANSI requirements. The design shall also include coordination with HABD’s environmental engineering firms for the abatement of asbestos, lead-containing building materials and mold as well as demolition of existing structures. Generally, the requirements will consist of the following:

Phases and Description of Basic Services may include:

1. Schematic Design/Preliminary Study Phase
   - Site plans
   - Schedule of building types, unit distribution and bedroom count
   - Scale plan of all buildings, and typical dwelling units
   - Wall sections and elevations
   - Outline specifications
   - Preliminary construction cost estimates
   - Project specific analysis of codes, ordinances and regulations
   - Three dimensional line drawings

2. Design Development Phase
   - Drawings sufficient to fix and illustrate project scope and character in all essential design elements
   - Outline specifications
   - Cost estimates and analysis
   - Recommendations for phasing of construction
   - Site plans
   - Landscape plans
   - Floor Plans
   - Elevations, building and wall sections
   - Updated three dimensional line drawings
   - Engineering drawings

   - Solicitation for Bids
   - Form of Contract
   - Special Conditions
   - General Conditions
   - Technical Specifications
   - Plans and Drawings
   - Updated cost estimates

4. Bidding and Award Phase
   - Respond to inquiries
Drafting and issuing addenda approved by HABD
Attending pre-bid conferences
Attending public bid openings
Reviewing and tabulating bids
Recommending list of eligible bids
Recommending award
Altering drawings and specifications as often as required to award within the
Estimated Construction Contract Cost

5. Construction Phase
- Construction Contract Administration
- Conduct pre-construction conference and dispute resolution conferences
- Review and approve contractor’s shop drawings and other submittals for
  conformance to the requirements of the contract documents
- At HABD’s written request, and as an Additional Service, procure testing from
  qualified parties
- Monitor the quality and progress of work
- Require any sub-consultant to provide the services listed and to visit the Project
  during the time that construction is occurring on the portion of the work related to
  it’s discipline and report in writing to the Design Professional
- Review, approve and submit to HABD the Contractor Request for Payment
- Conduct all job meetings and record action in a set of minutes which are to be
  provided to HABD
- Make modifications to construction Contract Documents to correct errors, clarify
  intent or to accommodate change orders
- Make recommendations to HABD for solutions to special problems or changes
  necessitated by conditions encountered in the course of construction
- Promptly notify HABD in writing of any defects or deficiencies in the work or of
  any matter of dispute with the contractor
- Negotiate, prepare cost or price analysis for and counter sign change orders
- Prepare written punch lists, certificates of completion and other necessary
  construction close out documents
- Prepare a set of reproducible record prints of Drawings showing significant
  changes in the work made during construction

6. Post Completion/Warranty Phase
- Consult with and make recommendations to HABD during warranties regarding
  construction, and equipment warranties
- Perform an inspection of construction work, material, systems and equipment no
  earlier than nine months and no later than ten months after completion of the
  construction contract and submit report to HABD
- Advise and assist HABD in construction matters for a period of up to eighteen
  months after completion of the project, but such assistance is not to exceed forty
  hours of service and one non-warranty trip away from the place of business of the
  Design Professional.

D. Projects: HABD anticipates possible projects which may be pursued with the selected firms
including:

a. Modernization of Public and Affordable Housing properties’ systems including
  commercial, single, and multi-family residential properties.
b. Site improvements including driveways, sidewalks, site lighting, landscape, foundations, and systems including plumbing, electrical, lighting and HVAC.

c. Moderate Rehabilitation of single and multi-family properties for inclusion of energy efficient “Green” solutions.

d. Design Work- System and structural upgrades to the interior and exteriors of various buildings at a variety of properties.

e. Structural deficiencies at various properties.

f. Rehabilitation of fire, water, mold, and wind damaged properties.

g. Land Surveying.

h. Assessments and/or forensic evaluations of structural, electrical, plumbing or other defects in single or multi-family housing.

i. Renovation of utility systems to address defects or to modernize.

E. REGULATORY: Contractor(s) shall comply with all applicable federal, state and local laws, rules, regulations, ordinances and codes and obtain any licenses or permits required to provide the services under this RFQ.

F. QUALIFICATIONS, LICENSING & CERTIFICATION: The professional/s assigned shall be fully qualified and licensed as required by the jurisdiction in which the service is to be performed and the license shall be current and in good standing. Copies of the licenses and certifications shall be placed under Tab 10.

G. PRODUCT QUALITY STANDARD: Contractor shall provide goods and/or services that meet or exceed acceptable and/or applicable industry, government or certifying agency standards and in all cases meet or exceed the requirements of HUD and HABD.

a. Respondents should have a good understanding of and experience in single, multi-family residential and commercial properties.

H. PROJECT PERSONNEL: Contractor shall perform criminal history checks and drug screening tests on all current & prospective employees performing work under this RFQ and any resulting contract and provide summaries of the results to HABD if requested. Employees & prospective employees whose criminal history check discloses a misdemeanor or felony involving moral turpitude or harm to persons or property or sexual offenses will not be employed to perform work under this RFQ or any resulting contract. Criminal history and drug screening checks will be completed at the sole expense of the Contractor.

VII. COMMUNICATIONS:

A. Form: All claims, notices, demands, requests, instructions, approvals and submissions must be submitted in writing.

B. Notice to Contractor: Any Notices or Demands upon the Contractor shall be sufficiently given if delivered at the office of the Contractor stated on the signature page of the Contract or at such other office as he/she may from time to time designate in writing to HABD or deposited in the United
States mail in a sealed, postage-prepaid envelope and addressed to the office of the Contractor indicated on the signature page of the contract or such other address as may be subsequently specified in writing to HABD.

C. **Notice to HABD**: All notification papers required to be delivered to HABD or its designated representative shall, unless otherwise specified in writing to the Contractor, be delivered to Attn. Procurement, HABD at 1826 Third Avenue South Birmingham, AL 35233; and any notice to or demand upon HABD shall be sufficiently given if so delivered or deposited in the United States mail in a sealed, postage-prepaid envelope to the above address or to such other address as HABD may subsequently specify in writing to the Contractor for such purpose.

D. **Receipt**: Any such notice shall be deemed to have been given as of the time of actual delivery; or in the case of mailing, when the same should have been received in due course after the date of surrender to the Post Office at the time of actual receipt, as the case may be.

E. **Notice to Start**: The start date will be determined by the HABD Asset Manager and Contractor’s assigned professional. Contractor shall not begin work until written notice is received from HABD signed by the contracting officer or his/her designee.

F. **Responsibility for Subcontractors**: All requirements for the “Prime” contractor shall also apply to any and all subcontractors. It is the Prime Contractors’ responsibility to insure the compliance by the subcontractors. Regardless of subcontracting, the Prime Contractor remains liable to HABD for the performance under this RFQ or any resulting contract.

G. **Liquidated Damages**: For each day that performance under a resulting contract from this RFQ is delayed beyond the time specified for completion, the successful proposer shall be liable for liquidated damages in the amount of $1000.00 per day. However, the timeframe for performance may be adjusted at HABD’s discretion in writing and received by the successful proposer prior to default under any resulting contract.

H. **Insurance**: HABD requires a Professional Liability policy for this contract with errors and omissions coverage. See pg. 17 in Section XI.

I. **Type of Contract resulting from RFQ & Escalations**: The term of the contract is a firm fixed duration with an extension or extensions possible at the sole discretion of HABD. The initial contract term shall be for two year with the possibility of up to three additional one-year extensions.

J. **Form of Contract**: Awarded firms will be required to execute a HUD Form 51915 (see attachment A) for each project assigned or HABD’s current Agreement for Services in the case (see attachment B) of a project that is not federally funded.

**VIII. CONDITIONS TO PROPOSE:**

A. **Pre-Qualification of Respondents**: Prospective Respondents will not be required to pre-qualify in order to submit a submission except as specified below. All Respondents shall submit adequate information showing that the Respondent is qualified to perform the required work (i.e. Profile of Firm Form in Attachment C). Failure by any prospective Respondent to provide requested information may, at HABD’s discretion, eliminate that Respondent from consideration.

B. **RFQ Forms, Documents, Specifications and Drawings**:
   
   a. Prior to submitting a submission in response to the RFQ, it shall be each prospective Respondent’s RFQ.
b. Unless otherwise instructed, specifications and drawings (if provided) do not purport to show all of the exact details of the work. They are intended to illustrate the character and extent of the performance desired under the proposed contract and may be supplemented or revised from time to time.

c. "Or Equal" references to catalogs, manufacturer's references, brand names, model numbers etc. are intended to indicate type, quality, and performance desired only unless specifically specified otherwise. Submissions on brands of like nature, quality and performance will be considered. If proposing other than the referenced item(s), the submission submittal shall show the manufacturer, brand or trade name, model, description, illustration, and specifications of the product offered and must include the supporting data in the submission submittal. Failure to identify the proposed alternate products or provide supporting data shall require Contractor to furnish the brand names, numbers, models, etc. specified.

C. Submissions and Receipt by HABD:

a. Time for Receiving Submissions: Qualification responses received prior to the submittal deadline shall be securely kept, unopened, by HABD. The Director of Procurement whose duty it is to open such responses will decide when the specified time has arrived. No response received after the designated deadline shall be considered.

b. Respondents are cautioned that any submittal that is time-stamped as being received by HABD after the exact time set as the deadline for the receiving of Qualifications shall not be considered. Any Qualifications not submitted in a timely manner that are inadvertently opened shall be ruled invalid. No responsibility will attach to HABD or any official or employee thereof, for the pre-opening of, or the failure to open a response not properly addressed and/or identified.

c. One (1) original signature copy (marked "ORIGINAL") with a cover and extending tabs, one (1) electronic copy and three (3) exact copies (marked "COPY") are required. The submittal, shall be placed unfolded in a sealed package with the respondent's name and return address as follows:

RFQ #
Exact Title of RFQ
The Housing Authority of the Birmingham District
Procurement Office
1826 3rd Avenue South
Birmingham, AL 35233

d. Withdrawal of Qualifications: Qualification responses may be withdrawn as detailed within the attached HUD Form(s) and as specified below. Negligence on the part of the Respondent in preparing his/her response confers no right of withdrawal or modification of his/her response after such submission has been received and opened. HABD shall not be responsible for any cost associated with the withdrawal including but not limited to postage and/or shipping.

e. Procedure to withdraw pre-closing: A request for withdrawal of a response prior to the specified date and time of the closing shall be submitted in writing and signed by an authorized agent of the company with complete contact information and direction on how to return or dispose of the withdrawn response.
f. **Procedure to withdraw post-closing:** A request for withdrawal of a response due to a purported error need not be considered by HABD unless filed in writing by the Respondent. Any such request shall contain a full explanation of any purported error and shall, if requested by HABD, be supported by the original calculations on which the response was computed, together with a certification and notarization thereon that such computation is the original and was prepared by the respondent or his/her agent, who must be identified on the notarized form. The foregoing shall not be construed that such withdrawal will be permitted, as HABD retains the right to accept or reject any proposed withdrawal for a mistake.

D. **Exceptions to Specifications:**

a. A prospective Respondent may take exception to any of the submission documents or any part of the information contained therein, by submitting, in writing to the HABD Director of Procurement, at least seven (7) days prior to the submission deadline, a complete and specific explanation as to what he/she is taking exception. Proposed alternate documents or information must also be included. HABD reserves the right to agree with the prospective Respondent and issue an addendum to the applicable RFQ requirements, or may reject the prospective Respondent's request.

b. When taking exception, prospective Respondents must propose services that meet the requirements of the RFQ documents. Exceptions to the specification and/or approved "equal" requests may be discussed at the pre-submission conference (if scheduled). Any verbal communications or instructions provided by any HABD staff shall only become official and binding when issued as an addendum or as a written answer issued by addendum pursuant to receipt of a written question by the HABD Procurement Department.

E. **Interpretations:** No official oral interpretation can be made to any Respondent as to the meaning of any instruction, condition, specifications, drawing (if any), or any other document issued pertaining to this RFQ.

IX. **FORM OF RESPONSE:**

A. The response shall be submitted in the following manner. Failure to submit the response in the manner specified may result in a premature opening of, post-opening of, or failure to open and consider that response, and may, at the discretion of the HABD, eliminate that respondent from consideration for award.

B. **Required Forms:** All forms attached to this RFQ document issued shall be fully completed and submitted by the respondent. Such forms may be completed in a legible hand-written fashion, by use of a typewriter, or may be downloaded and completed on a computer. If, during the download, a form becomes changed in any fashion, the Respondent must “edit” the form back to its original form (for example, signature lines must appear on the page which the line was originally intended).

C. **Tabbed Submission Submittal:** So that HABD can properly evaluate the Qualifications received, all Qualifications submitted in response to this RFQ must be formatted in accordance with the sequence noted below. Each category must be separated by numbered/labeled index dividers and the number/label on the index divider must extend so that each tab can be located without opening the submission and labeled with the corresponding tab reference noted below. None of the proposed services may conflict with any requirement HABD has published herein or has issued by addendum.
D. **Tab 1, Submission Forms:** These Forms and Respondent’s Profile of Firm Form must be fully completed, and submitted under this tab as a part of the submission submittal.

E. **Tab 2, Form HUD Forms and Conflict of Interest Questionnaire:** These Forms are Attachment B to this RFQ must be fully completed and executed where provided thereon and submitted under this tab.

F. **Tab 3, Experience, Performance, Certifications:** The Respondent must submit under this tab a concise description of its experience, performance, capacity, and training to deliver the proposed services, to include:

G. **Experience:** Professional’s or Team’s overall experience in design, conversion, and rehabilitation of commercial, industrial, retail, single and multi-family housing and associated engineering services. Include resume(s), professional memberships and certifications for the Professional(s) projected to be assigned to HABD projects.

H. **Projects:** The projects developed, rehabilitated, built, designed and/or supervised in the last five years that demonstrate the lead Firm’s ability to deliver on time, on budget, with a minimum of change orders.

I. **Green Building:** List experience and specialized training in “Green” building with regard to sustainability, energy efficiency, water conservation, reclamation and re-use/reutilization.

J. **Project Approach:** Provide the approach (generically) used in evaluating the condition of existing properties and preparation of reports that detail the conditions of the property and how the firm determines which recommendations or options for correcting deficiencies.

K. **Team:** Detailed information regarding the Proposer’s team (subcontractors and suppliers) and the methodology and/or reasoning for their selection to assist the Proposer in performing the specified services and in particular its inclusion of small and minority firms in its makeup.

L. **Tab 4, Client Information:** The Respondent shall submit three former or current clients, preferably other than HABD, for whom the Respondent has performed similar or like services to those being proposed herein within the last three (3) years. The list shall, at a minimum, include for each reference:

   a. The client’s name;
   b. The client’s current telephone number and address,
   c. Description of services provided to the client,
   d. Date of services.

M. **Tab 5, Joint Venture/Partnerships:** The Respondent shall indicate if this submission is by a joint venture or partnership with another entity. All information required from the Respondent under the proceeding or subsequent tabs must also be provided by any joint venture or partner. One entity must be designated as the primary contact for the joint venture or partnership in the submission. If available, include copies of the legal documents creating the joint venture or partnership and a completed Profile of Firm form for each entity. If none please provide this statement, “NO JOINT VENTURE/PARTNERSHIP”, in this section.

N. **Tab 6, Subcontractors:** Respondents shall provide HABD with the name, contact information to include address, phone number, email address, core area of business or trade, and years of expertise for each subcontractor and supplier and its minority status if available intended to be utilized by the
Respondent to perform the services requested in this RFQ. The Profile of Firm Form attached hereto as (Attachment C) to this RFQ document must be fully completed, executed and submitted under this tab as a part of the submittal by/for each subcontractor. Respondent must realize that the actual usage of the subcontractor will be contingent upon HABD’s prior written approval, and Respondent remains responsible to HABD for any and all services and goods provided pursuant to this RFQ and any resulting contract. If no subcontractors will be utilized, please provide this statement, “NO SUBCONTRACTORS”, in this section.

O. Tab 7, Section 3 Preference: Any Respondent claiming a Section 3 Business Preference shall under this tab include the fully completed and executed Section 3 Business Preference Certification Forms and any documentation. Supporting documentation required to verify household income includes but is not limited to completed and signed Applicant Certification forms by each Section 3 employee for which Respondent is seeking the preference. The Respondent shall verify the total number of full-time employees and names of the low-income residents under this tab.

P. Tab 8, Financial Viability, Company Biography & Other Information: Financial viability is the capacity to perform the work without undue financial stress which would cause the Contractor to either cease operations or enter into bankruptcy. Respondent shall provide proof of financial viability which may include a copy of their most recent financial statement, a CPA prepared balance sheet that clearly show assets, liabilities, credit lines, debt and cash flow or, their most recent audit, SEC filings or other documents which support the Contractor’s financial health. The Respondent shall complete the company biography page that is attached or provide a brief company history including: date founded, number of employees, company headquarters location and operating locations, etc. Respondent must also include any applicable business licenses, permits, and certifications required under this tab. The Respondent may also provide hereunder any other general information that the Respondent believes is appropriate to assist HABD in its evaluation.

Q. Proposed Costs:
   a. Costs: The cost for each project will be negotiated independently with the awarded firm or firms. No fees or costs may be submitted in the submission.
   b. Submission Submittal Binding Method: The Respondent must bind the original submittal in such a manner that HABD 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 return the submission submittal to its original condition.

X. SUBMISSION EVALUATION:

A. Submittal Opening Results: It is understood by all Respondents that the Request for Qualifications are publicly opened and the results will be a matter of public record. When HABD has concluded all evaluations, has chosen a final top-rated Respondent(s), has completed the award and is ready to issue such results, HABD shall notify the successful Respondent(s).

B. All submission documents submitted by the Respondents are generally a matter of public record and are subject to disclosure.

C. Evaluation: Each submission submittal will be evaluated based upon the following information and criteria listed previously.

D. Initial Evaluation-Responsiveness: Each submission received will first be evaluated for responsiveness (i.e., meeting the minimum requirements as stated in the RFQ).
E. **Evaluation-Responsibility:** HABD shall, using the criteria established below, evaluate each of the Qualifications submitted in response to this RFQ to determine the Respondent's level of responsibility. HABD will consider capabilities or advantages that are clearly described in the submission that may be confirmed by oral presentations, site visits, demonstrations, and references contacted by HABD. All Qualifications would be evaluated as to their overall value to HABD.

F. **Evaluation Criteria:** The evaluation panel will use the following rating criteria to evaluate each of the required elements specified in the submission. Then each element will be scored based on the weight assigned to that element and then all element scores will be added to arrive at the sum total score:

<table>
<thead>
<tr>
<th>NO.</th>
<th>MAX POINT VALUE</th>
<th>FACTOR TYPE</th>
<th>FACTOR DESCRIPTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>25</td>
<td>Subjective (Technical)</td>
<td>Evidence of the proposer's <strong>ABILITY TO PERFORM THE WORK,</strong> as indicated by profiles of principals' and staff assigned to do the work, their professional and technical competence and experience. Submissions may also affect perceive quality of work offered and therefore, should be as specific as possible. Prior approval by HABD is required for outside consultants or associates.</td>
</tr>
<tr>
<td>2</td>
<td>25</td>
<td>Subjective (Technical)</td>
<td>Evidence of the proposer's <strong>CAPABILITY</strong> to provide professional services in a timely manner.</td>
</tr>
<tr>
<td>3</td>
<td>25</td>
<td>Subjective (Technical)</td>
<td>Evidence of the proposer's <strong>SUCCESSFUL PAST PERFORMANCE</strong> in terms of cost control, quality of work, and compliance with performance schedule with contract work substantially similar to that required by this solicitation.</td>
</tr>
<tr>
<td>4</td>
<td>15</td>
<td>The proposer's <strong>DEMONSTRATED KNOWLEDGE</strong> of local building codes and Federal building alterations requirements.</td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>10</td>
<td>The <strong>OVERALL QUALITY AND PROFESSIONAL APPEARANCE OF</strong> based upon the opinion of the evaluators.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>100</td>
<td>Total Points</td>
<td></td>
</tr>
</tbody>
</table>

G. **Competitive Range:** Presentations for Respondents within the competitive range may be required and shall be a factor in the award if utilized.

H. **Irregular Submission Submittal:** A submission shall be considered irregular for any one of the following reasons, any one or more of which may, at HABD's discretion, be reason for rejection:

a. If the forms furnished by HABD are not used or are altered or if the proposed costs are not submitted as required and where provided.

b. If all requested completed attachments do not accompany the submission submittal.

c. If there are unauthorized additions, conditional or alternate submissions, or irregularities of any kind which may tend to make the submission incomplete, indefinite or ambiguous as to its meaning or give the Respondent submitting the same a competitive advantage over other Respondents.

d. If the Respondent adds any provisions reserving the right to accept or reject any award or to enter into a contract pursuant to an award.

I. **Disqualification of Respondents:** Any one or more of the following shall be considered as sufficient for the disqualification of a prospective Respondent and the rejection of his/her submission:
a. Evidence of collusion among prospective Respondents.

b. More than one submission for the same work from an individual, firm, or corporation under the same or different name(s).

c. Lack of competency, lack of experience and/or lack of adequate machinery, plant and/or other resources.

d. Unsatisfactory performance record as shown by past work for HABD or with any other local, state or federal agency, judged from the standpoint of workmanship and progress.

e. Incomplete work, which in the judgment of HABD, might hinder or prevent prompt completion of additional work, if awarded.

f. Failure to pay or satisfactorily settle all bills due on former contracts still outstanding at the time of letting.

g. Failure to comply with any qualification requirements of HABD.

h. Failure to list, if required, all subcontractors (if subcontractors are allowed by HABD) who will be employed by the successful Respondent(s) to complete the work of the proposed contract.

i. As required by the RFQ documents, failure of the successful Respondent to be properly licensed by the City, County and/or the State of Alabama and/or to be insured by a commercial general liability policy and/or worker's compensation policy and/or business automobile liability policy, if applicable.

j. Any reason to be determined in good faith, to be in the best interests of HABD.

J. Award of Submission(s): The award shall be to the top-rated responsive and responsible Respondent(s) determined by the evaluation process, presentations (if requested), negotiations, Best & Final Offers (BAFO), HABD’s business needs and, Respondent’s ability to deliver within budget the specified items in a timely manner. HABD reserves the right to award in any manner that best serves the business needs of the agency. Respondents shall be recommended for award if in HABD’s opinion, it is in the best interest to accept the submission.

K. Insurance: If a Respondent receives an award and unless otherwise waived in the Contract, the Contractor will be required to provide an original Certificate of Insurance confirming the following minimum requirements to HABD within (10) days of contract signature:

XI. CONTRACT AWARD

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

   a. By completing, executing and submitting the Form of Contract, Attachment A, the "proposer" is thereby agreeing to abide by all terms and conditions pertaining to this RFQ as issued by HABD. The contract shall not require the HABD to pay interest for late payment.

   b. A formal document, including all agreements and exceptions, shall be signed by HABD and the A&E firm upon contract award.

   c. The following forms are attached and are part of the RFQ documents. Please note that
HABD 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 RFQ.

<table>
<thead>
<tr>
<th>Attachment</th>
<th>Attachment Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>HUD 51915 Model Form of Agreement</td>
</tr>
<tr>
<td>B</td>
<td>HABD Agreement for Services</td>
</tr>
<tr>
<td>C</td>
<td>Profile of Firm Form (submission required)</td>
</tr>
<tr>
<td>D</td>
<td>Non-Collusive Affidavit (submission required)</td>
</tr>
<tr>
<td>E</td>
<td>HABD Certification of Non-Discrimination (submission required)</td>
</tr>
<tr>
<td>F</td>
<td>Section 3 Guidelines</td>
</tr>
<tr>
<td>G</td>
<td>Section 3 Business Concern Certification (submission required if applicable)</td>
</tr>
<tr>
<td>H</td>
<td>Section 3 Acknowledgement (submission required)</td>
</tr>
<tr>
<td>I</td>
<td>Section 3 Participation Election Form (submission required)</td>
</tr>
<tr>
<td>J</td>
<td>Section 3 Contribution Fund Agreement (submission required if applicable)</td>
</tr>
<tr>
<td>K</td>
<td>Form HUD 92010 Equal Employment Opportunity Certification (submission required)</td>
</tr>
<tr>
<td>L</td>
<td>Form HUD 50070 Certification of a Drug-Free Work Place (submission required)</td>
</tr>
<tr>
<td>M</td>
<td>Form HUD 5369 Instructions to Bidders for Contracts</td>
</tr>
<tr>
<td>N</td>
<td>Form HUD-5369-B Instructions to Offerors Non-Construction</td>
</tr>
<tr>
<td>O</td>
<td>Form HUD-5369-C (01/31/2014), Certifications and Representations of Offerors Non-Construction Contract</td>
</tr>
<tr>
<td>P</td>
<td>Form HUD-5370-C General Conditions for Non-Construction Contracts</td>
</tr>
<tr>
<td>Q</td>
<td>Form HUD-5370 General Conditions for Construction Contracts</td>
</tr>
<tr>
<td>R</td>
<td>Form 2992 Certification Regarding Debarment and Suspension (submission required)</td>
</tr>
<tr>
<td>S</td>
<td>E-Verify Form – Contractor’s Affidavit (submission required)</td>
</tr>
<tr>
<td>T</td>
<td>HUD 50071 Certification of Payment to Influence Federal Transactions</td>
</tr>
</tbody>
</table>

*These forms have been included specifically for any work that may be deemed to be construction-related. Be aware that if HABD does retain the successful proposer to do construction-related work at any time during the ensuing contract period(s), there will be additional HUD-required forms to complete pertaining to such; and by submitting a submission, the successful proposer hereby agrees to complete and submit those forms as required. Also, in the case of any discrepancy of any terms and conditions listed within these forms and any other forms herein, HABD reserves the right to determine which such term or condition shall apply. By submitting a submission in response to this RFQ, the proposer thereby agrees to abide by these requirements.

B. **Contract Conditions:** The following provisions are considered mandatory conditions of any contract award made by HABD pursuant to this RFQ:

a. **Contract Form:** Any resulting agreement shall be placed in writing using the format in the Model Form of Agreement Between Owner and Design Professional HUD form 51915 which is acceptable to the Department of Housing and Urban Development. *(Agreement attached)*. and by submitting the successful proposer agrees to do so. HABD will during the RFQ process *(prior to the submittal deadline)* consider any contract clauses that the proposer wishes to include therein and submits in writing a request for HABD to do so; but the failure of HABD to include such clauses does not give the successful proposer the right to refuse to execute HABD's contract form. It is the responsibility of each prospective proposer to notify HABD, in writing, prior to submitting a submission, of any contract clause that he/she is not willing to include in the final executed contract and abide by. HABD will consider and respond to such written correspondence; and, if
b. **Assignment of Personnel:** HABD shall retain the right to demand and receive a change in personnel assigned to the work if HABD believes that such change is in the best interest of HABD and the completion of the contracted services.

c. **Unauthorized Sub-Contracting Prohibited:** The successful proposer shall not assign any right, nor delegate any duty for the work proposed pursuant to this RFQ (including, but not limited to, selling or transferring the contract) without the prior written consent of the Contracting Officer (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 HABD, or may result in the full or partial forfeiture of funds paid to the successful proposer as a result of the proposed contract; either as determined by the CO.

C. **Contract Period:** HABD anticipates that it will initially award a contract for the period of two (2) years, with the option, at HABD's discretion of 3 additional one-year option periods, for **a maximum total of 5 years.**

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

a. An original certificate evidencing the proposer's current industrial (worker's compensation) insurance carrier and coverage amount.

b. An original certificate evidencing General Liability coverage, if awarded a contract the contractor will agree to name HABD as an additional insured on all commercial or comprehensive general liability policies for the duration of the contract. The policy will contain a (minimum of $1,000,000 each occurrence, general aggregate minimum limit of $2,000,000, together with damage to premises and fire damage of $1,000,000 and medical expenses any one person of $50,000), with a commercially reasonable deductible (e.g. "commercially reasonable," meaning at least 1% of the "general aggregate minimum" of the policy, with a maximum deductible amount of $50,000. Additionally, contractor shall state that a thirty - day notice of prior cancellation or change will be provided to HABD.

c. An original certificate showing the proposer's professional liability and/or "errors and omissions" coverage (minimum of $1,000,000 each occurrence, general aggregate minimum limit of $5,000,000), with a deductible not greater than $1,000.

d. 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 $50,000/$100,000 and medical pay of $5,000.

e. If applicable, a copy of the proposer's license issued by the State of Alabama licensing authority allowing the proposer to provide the services detailed herein.

f. The requested related information shall also be entered where provided for on the Profile of Firm Form (DO NOT ATTACH. SUBMIT COPIES WITHIN THE SUBMITTAL--we will garner the necessary certificates from the successful proposer prior to contract execution).
E. **Right to Negotiate Final Fees:** HABD shall retain the right to negotiate the amount of fees that are paid to the successful proposer, meaning the fees proposed by the top-rated proposer may, at HABD's options, be the basis for the beginning of negotiations. Such negotiations shall begin after HABD has chosen a top-rated proposer. If such negotiations are not, in the opinion of the CO successfully concluded within 10 business days, HABD shall retain the right to end such negotiations and begin negotiations with the next-rated proposer. HABD shall also retain the right to negotiate with and make an award to more than one proposer, as long as such negotiation(s) and/or award(s) are addressed in the above manner (i.e., top-rated first, then next-rated following, until a successful negotiation is reached).

F. **Contract Service Standards:** All services performed pursuant to this RFQ must conform and comply with all applicable local, state and federal codes, statutes, laws, and regulations.

X. **ADDITIONAL CONSIDERATIONS:**

A. **Required Permits and Licenses:** Unless otherwise stated in the RFQ documents, all Federal, State or local permits and licenses which may be required to provide the services ensuing from any award of this RFQ, whether or not they are known to either the HABD or the Respondents at the time of the submission submittal deadline or the award, shall be the sole responsibility of the successful Respondent and all offers submitted by the Respondent shall reflect all costs required by the successful Respondent to procure and provide such necessary permits or licenses.

B. **Taxes:** HABD, as a governmental entity, is exempt from Alabama State Sales and Use Taxes and Federal Excise Taxes. A letter of Tax Exemption will be provided upon request.

C. **Government Standards:** It is the responsibility of the prospective Respondent to ensure that all items and services proposed conform to all local, state and federal law concerning safety (OSHA) and environmental control (EPA and Jefferson County Pollution Regulations) and any other enacted ordinance, code, law or regulation. The successful Respondent shall be responsible for all costs incurred for compliance with any such possible ordinance, code, law or regulation. No time extensions shall be granted or financial consideration given to the successful Respondent for time or monies lost due to violations of any such ordinance, code, law or regulations that may occur.

D. **Delivery:** All costs submitted by the successful Respondent shall reflect the cost of delivering the proposed items and/or services to the locations specified within the RFQ documents or within the Agreement. All costs in the submission submittal shall be quoted as FOB Destination, Freight Prepaid and allowed unless otherwise stated in this RFQ.

E. The successful Respondent agrees to deliver to the designated location(s) on or before the date as specified in the finalized contract. Failure to deliver on or before the specified date constitutes an event of default by the successful Respondent. Upon default, the successful Respondent agrees that HABD may, at its option, rescind the finalized contract under the termination clause herein and seek compensatory damages as provided by law.

F. **Work on HABD Property:** If the successful Respondent’s work under the contract involves operations on HABD premises, the successful Respondent shall take all necessary precautions to prevent the occurrence of any injury to persons or property during the progress of such work and shall immediately return said property to a condition equal to or better than the existing condition prior to the commencement of work at the site at no cost to HABD.

G. **Estimated Quantities:** Unless otherwise indicated, the quantities shown are estimates only and are used to evaluate the responses and may or may not reflect anticipated purchases. HABD does not guarantee any minimum purchase quantity.
H. **Warranty:** All goods and/or services installed or provided under any contract resulting from this RFQ must include a minimum of a two (2) year warranty including labor and installation plus a minimum of a two (2) year warranty from the Contractor for labor, materials, and installation except as specified otherwise herein. This period will begin on the date of “FINAL” acceptance by HABD.

I. The services provided under the contract shall conform to all information contained within the RFQ documents as well as applicable Industry Published Technical Specifications, and if one of the above mentioned Specifications contains more stringent requirements than the other, the more stringent requirements shall apply.

J. In addition to all other warranties, the warranty shall include the warranty for merchantability and the warranty of fitness for a particular purpose.

K. **Assignment of Warranty:** Contractor shall assign any warranties and guarantees to HABD and provide the Contractor’s Warranty for Labor and Installation to HABD along with all Manufacturers’ Warranty documents.

L. **Official, Agent and Employees of the HABD Not Personally Liable:** It is agreed by and between the parties hereto that in no event shall any official, officer, employee, or agent of the HABD in any way be personally liable or responsible for any covenant or agreement herein contained whether expressed or implied, nor for any statement, representation or warranty made herein or in any connection with this agreement.

M. **Subcontractors:** Unless otherwise stated within the RFQ documents, the successful Respondent may not use any subcontractors to accomplish any portion of the services described within the RFQ documents or the contract without the prior written permission of HABD. Any substitution of subcontractors must be approved in writing by HABD prior to their engagement.

N. **Salaries and Expenses Relating to the Successful Respondents Employees:** Unless otherwise stated within the RFQ documents, the successful Respondent shall pay all salaries and expenses of, and all Federal, Social Security taxes, Federal and State Unemployment taxes, and any similar taxes relating to its employees used in the performance of the contract. The successful Respondent further agrees to comply with all Federal, State and local wage and hour laws and all licensing laws applicable to its employees or other personnel furnished under this agreement.

O. **Independent Contractor:** Unless otherwise stated within the RFQ documents or the contract, the successful Respondent is an independent contractor. Nothing herein shall create any association, agency, partnership or joint venture between the parties hereto and neither shall have any authority to bind the other in any way.

P. **Severability:** If any provision of this agreement or any portion or provision hereof applicable to any particular situation or circumstance is held invalid, the remainder of this agreement or the remainder of such provision (as the case may be), and the application thereof to other situations or circumstances shall not be affected thereby.

Q. **Waiver of Breach:** A waiver of either party of any terms or conditions of this agreement in any instance shall not be deemed or construed as a waiver of such term or condition for the future, or of any subsequent breach thereof. All remedies, rights, undertakings, obligations, and agreements contained in this agreement shall be cumulative and none of them shall be in limitation of any other remedy, right, obligation or agreement of either party.
R. **Time of the Essence:** Time is of the essence as to each provision in which a timeframe for performance is provided in this RFQ. Failure to meet these timeframes may be considered a material breach, and HABD may pursue compensatory and/or liquidated damages under the contract.

S. **Limitation of Liability:** In no event shall HABD be liable to the successful Respondent for any indirect, incidental, consequential or exemplary damages.

T. **Indemnity:** The Contractor covenants and agrees to FULLY INDEMNIFY and HOLD, HARMLESS HABD and employees, officers, directors, volunteers and representatives of HABD, individually and collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal or bodily injury, death and property damage, made upon HABD directly or indirectly arising out of, resulting from or related to Contractor’s activities under this contract, including any acts or omissions of Contractor, any agent, officer, director, representative, employee, consultant or subcontractor of Contractor, and their respective officers, agents employees, directors and representatives while in the exercise of performance of the rights or duties under this Agreement. The indemnity provided for in this paragraph shall not apply to any liability resulting from the negligence of HABD, its officers or employees, in instances where such negligence causes personal injury, death, or property damage. **IN THE EVENT CONTRACTOR AND HABD ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS FOR THE STATE OF ALABAMA, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO HABD UNDER ALABAMA LAW AND WITHOUT WAIVING ANY DEFENSES OF PARTIES UNDER ALABAMA LAW.** The provisions of this **INDEMNIFICATION** are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

U. **Public/Contracting Statutes.** HABD is a governmental entity as that term is defined in the procurement statutes. HABD and this RFQ and all resulting contracts are subject to federal, state and local laws, rules, regulations and policies relating to procurement.

V. **Termination:** Any contract resulting from this RFQ may be terminated under the following conditions:

   a. **Consent:** By mutual consent of both parties, and

   b. **Termination for Cause:** As detailed within the attached HUD Forms.

   c. HABD may terminate any and all contracts for default at any time in whole or in part, if the contractor fails to perform any of the provisions of any contract, so fails to pursue the work as to endanger performance in accordance with the terms of the RFQ or any resulting contracts, and after receipt of written notice from HABD, fails to correct such failures within ten (10) days or such other period as HABD may authorize or require.

   d. Upon receipt of a notice of termination issued from HABD, the Contractor shall immediately cease all activities under any contract resulting from this RFQ, unless expressly directed otherwise by HABD in the notice of termination.

   e. HABD may terminate any contract resulting from this RFQ in whole or in part, if funding is reduced, or is not obtained and continued at levels sufficient to allow for the expenditure.

   f. **Termination for Convenience:** In the sole discretion of the Contracting Officer, HABD
may terminate any and all contracts resulting from this RFQ in whole or part upon (10) ten
prior notice to the Contractor when it is determined to be in the best interest of
HABD.

g. The rights and remedies of HABD provided under this section are not exclusive and are
in addition to any other rights and remedies provided by law or under any contract.

h. In the event the resulting contract from this RFQ is terminated for any reason, or upon its
expiration, HABD shall retain ownership of all work products including deliverables,
source and object code, microcode, software licenses, and documentation in whatever form
that may exist. In addition to any other provision, the Contractor shall transfer title and
deliver to HABD any partially completed work products, deliverables, source and object
code, or documentation that the Contractor has produced or acquired in the performance of
any resulting contract.

i. Examination and Retention of Contractor's Records: HABD, HUD, or Comptroller
General of the United States, or any of their duly authorized representatives shall, until
three years after final payment under all contracts executed as a result of this RFQ, 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 audits, examinations, excerpts and transcriptions.

j. Inter-local Participation: HABD may from time to time enter into Inter-local Cooperation
Purchasing Agreements with other governmental entities or governmental cooperatives
(hereafter collectively referred to as "Entity" or "Entities") to enhance HABD’s purchasing
power. At HABD's sole discretion and option, HABD may inform other Entities that they
may acquire items listed in this RFQ. Such acquisition(s) shall be at the prices stated herein,
and shall be subject to Contractor's acceptance.

l. In no event shall HABD be considered a dealer, remarketer, agent or other representative
of Contractor or Entity. Further, HABD shall not be considered and is not an agent;
partner or representative of the Entity making purchases hereunder, and shall not be
obligated or liable for any such order.

m. Purchase orders shall be submitted to Contractor by the individual Entity.

n. HABD shall not be liable or responsible for any obligation, including but not limited to,
payment and for any item or service ordered by an Entity, other than HABD.

o. Right to data and Patent Rights: In addition to other ownership & use rights HABD
shall have exclusive ownership of all, proprietary interest in, and the right to full and
exclusive possession of all information, materials, documents, software, and all electronic
data discovered or produced by Contractor and/or subcontractor(s) pursuant to the terms
of any resulting contract, including but not limited to, reports, memoranda or letters
concerning the research and reporting tasks of any resulting contract. Both parties agree
to comply with HUD Bulletin 909-23, which is the Notice of Assistance Regarding Patent
and Copyright Infringement.

p. Lobbying Certification: By proposing to do business with HABD or by doing business
with HABD, each Respondent certifies the following:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of
the Respondent, to any person for influencing or attempting to influence an officer
Housing Authority of the Birmingham District  
General Architectural and Engineering Services  
RFQ No. 20-04  

or employee of Congress, or an employee of a Member of Congress, an officer or  
employee of Congress, or an employee of a Member of Congress in connection  
with the awarding of any Federal contract, the making of any Federal grant, the  
making of any Federal loan, the entering into any cooperative agreement, and the  
extension, continuation, renewal, amendment or modification of any Federal  
contract, grant, loan or cooperative agreement.

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

c. The successful Respondent shall require that the language of this certification be  
included in the award documents for all sub-awards at all tiers, (including but not  
limited to subcontractors, sub-grants, and contracts under grants, loans, and  
cooperative agreements) and that all sub-recipients shall certify and disclose  
accordingly.

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

W. **Applicable Statutes, Regulations & Orders:** Contractors shall comply with all statutes, rules,  
regulations, executive orders affecting procurements by Housing Authorities including but not  
limited to:

a. Executive Order 11625  
b. Executive Order 12138  
c. Copeland "Anti-Kickback" Act (18 USC 874)  
d. Davis Bacon Act (40 USC 276a-276a-7)  
e. Clean Air & Water Acts (42 USC 1857(h); 33 USC 1368)  
f. Contract Work Hours & Safety Standards Act (40 USC 327-330)  
g. Energy Policy & Conservation Act (PL 94-163, 89 STAT 871)  
h. Civil Rights Act of 1964, Title VI (PL 88-352)  
i. Civil Rights Act of 1968, Title VIII (PL 90-284 Fair Housing Act)  
j. Age Discrimination Act of 1975  
k. Anti-Drug Abuse Act of 1988 (42 USC 11901 et. Seq.)  
l. HUD Information Bulletin 909-23  
m. Immigration Reform & Control Act of 1986  
n. Fair Labor Standards Act (29 USC 201, et. Seq.)

X. **Additional Information:** Each provision of law and each clause, which is required by law to be  
inserted in this RFQ or any contract, shall be deemed to have been inserted herein, and this RFQ and  
any resulting contract shall be read and enforced as though such provision or clause had been  
physically inserted herein. If, through mistake or otherwise, any such provision is not inserted or is  
inserted incorrectly, this agreement shall forthwith be physically amended to make such insertion or
correction upon the application of either party. The fore-mentioned statutes, regulations and executive orders are not intended as an indication that such statute, regulation or executive order is necessary applicable nor is an omission of such statute, regulation or executive order intended to indicate that it is not applicable.

Y. **Conflicting Conditions:** In the even there is a conflict between the documents comprising this RFQ and any resulting contracts, the following order of precedence shall govern: (1) the more restrictive terms of either: any and all attached HUD forms and the term/conditions in the body of any resulting contract; (2) the RFQ; and (3) Contractor's Response. In the event that a conflict exists between any state statute or federal law the most restrictive terms shall apply.

Z. **Contract Form:** HABD will not execute a contract on the successful Respondent’s form. Contracts will only be executed on HABD’s form. By submitting a submission, the successful Respondent agrees to this condition. However, HABD will consider any contract clauses that the Respondent wishes to include therein, but the failure of HABD to include such clauses does not give the successful Respondent the right to refuse to execute HABD’s contract form. It is the responsibility of each prospective Respondent to notify HABD, in writing, with the submission submittal of any contract clauses that he/she is not willing to include in the final executed contract. HABD will consider such clauses and determine whether or not to amend the Contract.

AA. **Force Majeure:** Neither HABD nor Contractor shall be held responsible for delays or default caused by fire, flood, riot, acts of God or war where such cause was beyond, respectively, HABD or Contractor’s reasonable control. Contractor shall make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this Agreement.

XI. **GENERAL**

1. **Equal Opportunity Requirements.** Each firm or individual shall certify compliance with all applicable equal opportunity requirements governing contracts of the type. Bids must include signed HABD Certification of Non-Discrimination.

2. **Resident Participation.** HABD encourages the hiring of residents by the Contractor for any employment opportunities available as a result of its contracts. The Contractor will be asked to make every effort to hire residents and to provide job opportunities in the communities where the work is to be performed. The Contractor will be asked to report the hiring of any residents to assist HABD in monitoring resident participation in the performance of work under its contracts, progress toward achieving established goals and in the development of future resident participation programs.

3. **Beason-Hammon Act/E-Verify.** As a condition for the award of any contract, grant, or incentive by the state, any political subdivision thereof, or any state-funded entity to a business entity or employer that employs one or more employees, the business entity or employer shall not knowingly employ, hire for employment, or continue to employ an unauthorized alien and shall attest to such, by sworn affidavit signed before a notary. *The attached form should be completed and signed before a Notary Public. Attach to it verification of enrollment in E-Verify.*

4. **Section 3-HUD Act of 1968, 24 CFR 135.** 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 HABD –
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. The awarded Contractor agrees to comply with HUD's regulations in 24 CFR Part
135, which implements 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. Contractors are requested to
submit their Section 3 Statement attached in the bid package and agree to participation in this
HUD required program.

5. **Arbitration:** Any dispute, claim or controversy arising out of or relating to this RFP, shall be
settled by binding arbitration in Birmingham, Alabama, administered by the National
Arbitration Forum (NAF) under its Code of Procedure, currently in effect, and judgment on the award
rendered by the arbitrator may be entered in any court having jurisdiction thereof. There shall be
one arbitrator, named in accordance with the procedure. The parties are waiving their right to
seek remedies in court, including the right to jury trial. The arbitration will be conducted in
accordance with the Federal Arbitration Act (FAA). The arbitrator shall decide the dispute in
accordance with the substantive law of the State of Alabama.

6. **Executive Order:** HABD in accordance with the Executive Orders 11625 and 12138
encourages participation by businesses owned and operated by minorities and women and
Section 3 Business Concerns. It is the policy of HABD to use best good faith efforts,
consistent with applicable federal regulations and executive orders, to fully promote
participation and utilization of disadvantaged and historically underutilized businesses in all areas
of Authority contracting. Bidders and offerors are expected to demonstrate diligence to achieve
participation and utilization. HABD has established an administrative goal of 20% utilization of
disadvantaged and historically underutilized businesses for performance of the work under this
procurement. The bidder is to complete the subcontractor data sheet and identify the
disadvantaged and historically underutilized business proposed to be utilized in this work.

*Remainder of this page left blank intentionally*
Attachment A

HUD FORM 51915
Model Form of Agreement Sample

HOUSING AUTHORITY OF THE BIRMINGHAM DISTRICT, ALABAMA (205-324-0641)
Model Form of Agreement Between Owner and Design Professional
Model Form of Agreement
Between Owner and Design Professional

Public reporting burden for this collection of information is estimated to average 3 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. This agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless that collection displays a valid OMB control number.

These contracts between a HUD grante (housing agency (HA)) and an architect/engineer (A/E) for design and construction services do not require either party to submit any materials to HUD. The forms provide a contractual agreement for the services to be provided by the A/E and establishes responsibilities of both parties pursuant to the contract. The regulatory authority is 24 CFR 85.36. These contractual agreements are required by Federal law or regulation pursuant to 24 CFR Part 85.36. Signing of the contracts is required to obtain or retain benefits. The contracts do not lend themselves to confidentiality.

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Introduction to Agreement

Agreement
made as of the ____________ day of ________________ in the year (yyyy) of ______

Between the Owner (Name & Address)

and the Design Professional (Name, Address and Discipline)

For the following Project (Include detailed description of Project, Location, Address, Scope and Program Designation)

The Owner and Design Professional agree as set forth below.
Article A: Services

A 1.0 Design Professional's Basic Services

A 1.1 Areas of Professional’s Basic Services. Unless revised in a written addendum or amendment to this Agreement, in planning, designing and administering construction or rehabilitation of the Project, the Design Professional shall provide the Owner with professional services in the following areas:

- Architecture
- Site Planning
- Structural Engineering
- Mechanical Engineering
- Electrical Engineering
- Civil Engineering
- Landscape Architecture
- Cost Estimating
- Construction Contract Administration

A 1.2 Phases and Descriptions of Basic Services.

A 1.2.1 Schematic Design/Preliminary Study Phase. After receipt of a Notice to Proceed from the Owner, the Design Professional shall prepare and deliver Schematic Design/Preliminary Study Documents. These documents shall consist of a presentation of the complete concept of the Project, including all major elements of the building(s), and site design(s), planned to promote economy both in construction and in administration and to comply with current program and cost limitations. The Design Professional shall revise these documents consistent with the requirements and criteria established by the Owner to secure the Owner's written approval. Additionally, the Design Professional shall make an independent assessment of the accuracy of the information provided by the Owner concerning existing conditions. Documents in this phase shall include:

- Site plan(s)
- Schedule of building types, unit distribution and bedroom count
- Scale plan of all buildings, and typical dwelling units
- Wall sections and elevations
- Outline specifications
- Preliminary construction cost estimates
- Project specific analysis of codes, ordinances and regulations Three dimensional line drawings

A 1.2.2 Design Development Phase. After receipt of written approval of Schematic Design/Preliminary Study Documents, the Design Professional shall prepare and submit to the Owner Design Development Documents. The Design Professional shall revise these documents consistent with the requirements and criteria established by the Owner to secure the Owner's written approval. These documents shall include the following:

- Drawings sufficient to fix and illustrate project scope and character in all essential design elements
- Outline specifications
- Cost estimates and analysis
- Recommendations for phasing of construction
- Site plan(s)
- Landscape plan
- Floor plans
- Elevations, building and wall sections
- Updated three dimensional line drawings
- Engineering drawings

A 1.2.3 Bidding, Construction and Contract Document Phase. After receipt of the Owner's written approval of Design Development Documents, the Design Professional shall prepare Construction Documents. After consultation with the Owner and Owner’s attorney, if requested by the owner, the Design Professional shall also prepare and assemble all bidding and contract documents. The Design Professional shall revise these Bidding, Construction and Contract documents consistent with the requirements and criteria established by the Owner to secure the Owner’s written approval. They shall, include in a detailed, manner all work to be performed; all material; workmanship; finishes and equipment required for the architectural, structural, mechanical, electrical, and site work; survey maps furnished by Owner; and direct reproduction of any logs and subsurface soil investigations. These documents shall include:

- Solicitation for Bids
- Form of Contract
- Special Conditions
- General Conditions
- Technical Specifications
- Plans and drawings
- Updated cost estimates

A 1.2.4 Bidding and Award Phase. After written approval of Bidding, Construction and Contract Documents from the Owner, the Design Professional shall assist in administering the bidding and award of the Construction Contract. This shall include:

- Responding to inquiries
- Drafting and issuing addendum approved by Owner
- Attending prebid conference(s)
- Attending public bid openings
- Reviewing and tabulating bids
- Recommending list of eligible bids
- Recommending award
- Altering drawings and specifications as often as required to award within the Estimated Construction Contract Cost
A. 1.2.5 Construction Phase. After execution of the Construction Contract, the Design Professional shall in a prompt and timely manner administer the Construction Contract and all work required by the Bidding, Construction and Contract Documents. The Design Professional shall endeavor to protect the Owner against defects and deficiencies in the execution and performance of the work. The Design Professional shall:

- Administer the Construction Contract.
- Conduct pre-construction conference and attend dispute resolution conferences and other meetings when requested by the Owner.
- Review and approve contractor's shop drawings and other submittals for conformance to the requirements of the contract documents.
- At the Owner's written request, and as Additional Service, procure testing from qualified parties.
- Monitor the quality and progress of the work and furnish a written field report weekly, semi-monthly, or monthly. This service shall be limited to a period amounting to 110% of the construction period as originally established under the construction contract unless construction has been delayed due to the Design professional's failure to properly perform its duties and responsibilities. The Owner may direct additional monitoring but only as Additional Services.
- Require any sub-consultant to provide the services listed in this section where and as applicable and to visit the Project during the time that construction is occurring on the portion of the work related to its discipline and report in writing to the Design Professional.
- Review, approve and submit to Owner the Contractor Requests for Payment.
- Conduct all job meetings and record action in a set of minutes which are to be provided to the Owner.
- Make modifications to Construction Contract Documents to correct errors, clarify intent or to accommodate change orders.
- Make recommendations to Owner for solutions to special problems or changes necessitated by conditions encountered in the course of construction.
- Promptly notify Owner in writing of any defects or deficiencies in the work or of any matter of dispute with the Contractor.
- Negotiate, prepare cost or price analysis for and countersign change orders.
- Prepare written punch list, certificates of completion and other necessary construction close out documents.
- Prepare a set of reproducible record prints of Drawings showing significant changes in the work made during construction, including the locations of underground utilities and appurtenances referenced to permanent surface improvements, based on marked-up prints, drawings and other data furnished by the contractor to the Design Professional.

A. 1.2.6 Post Completion/Warranty Phase. After execution of the Certificate of Completion by the Owner, the Design Professional shall:

- Consult with and make recommendations to Owner during warranties regarding construction, and equipment warranties.
- Perform an inspection of construction work, material, systems and equipment no earlier than nine months and no later than ten months after completion of the construction contract and make a written report to the Owner. At the Owner's request, and by Amendment to the Additional Services section of this contract, conduct additional warranty inspections as Additional Services.
- Advise and assist Owner in construction matters for a period up to eighteen months after completion of the project, but such assistance is not to exceed forty hours of service and one nonwarranty trip away from the place of business of the Design Professional.

A. 1.3 Time of Performance. The Design Professional's schedule for preparing, delivering and obtaining Owner's approval for Basic Services shall be as follows:

- Schematic Design/Preliminary Study Documents within _______ calendar days for the date of the receipt of a Notice to Proceed.
- Design Development Documents within _______ calendar days from the date of receipt of written approval by the Owner of Schematic Design/Preliminary Study documents.
- Bidding, Construction and Contract Documents within _______ calendar days from the date of receipt of written approval by the Owner of Design Development Documents.

A. 2.0 Design Professional's Additional Services

A. 2.1 Description of Additional Services. Additional Services are all those services provided by the Design Professional on the Project for the Owner that are not defined as Basic Services in Article A, Section 1.2 or otherwise required to be performed by the Design Professional under this Agreement. They include major revisions in the scope of work of previously approved drawings, specifications and other documents due to causes beyond the control of the Design Professional and not due to any errors, omissions, or failures on the part of the Design Professional to carry out obligations otherwise set out in this Agreement.

A. 2.2 Written Addendum or Contract Amendment. All additional services not already expressly required by this agreement shall be agreed to through either a written addendum or amendment to this Agreement.

Article B: Compensation and Payment

B. 1.0 Basic Services

B. 1.1 Fixed Fee for Basic Services. The Owner will pay the Design Professional for Basic Services performed as defined by A.1.2, a Fixed Fee (stipulated sum) of $ _______ plus Reimbursable Expenses identified in Article B.2.0. Such
payment shall be compensation for all Basic Services required, performed, or accepted under this Contract.

B. 1.2 Payment Schedule. Progress payments for Basic Services for each phase of work shall be made in proportion to services performed as follows:

<table>
<thead>
<tr>
<th>Phase</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Schematic Design/Preliminary Study Phase</td>
<td>$</td>
</tr>
<tr>
<td>Design Development Phase</td>
<td>$</td>
</tr>
<tr>
<td>Bidding, Construction &amp; Contract Document Phase</td>
<td>$</td>
</tr>
<tr>
<td>Bidding &amp; Award Phase</td>
<td>$</td>
</tr>
<tr>
<td>Construction Phase</td>
<td>$</td>
</tr>
<tr>
<td>Post Completion/ Warranty Phase</td>
<td>$</td>
</tr>
<tr>
<td>Total Basic Services</td>
<td>$</td>
</tr>
</tbody>
</table>

B. 2.0 Reimbursables

B. 2.1 Reimbursable Expenses. The Owner will pay the Design Professional for the Reimbursable Expenses listed below up to a Maximum Amount of $ _______ Reimbursable Expenses are in addition to the Fixed Fee for Basic Services and are for certain actual expenses incurred by the Design Professional in connection with the Project as enumerated below.

B. 2.1.1 Travel Costs. The reasonable expense of travel costs incurred by the Design Professional when requested by Owner to travel to a location that lies outside of a 45 mile radius of either the Project site, Design Professional's office(s), and Owner's office.

B. 2.1.2 Long Distance Telephone Costs. Long distance tele-phone calls and long distance telefax costs.

B. 2.1.3 Delivery Costs. Courier services and overnight delivery costs.


B. 2.1.5 Additional Reimbursables. The Design Professional and Owner may agree in an addendum or amendment to this Agreement to include certain other expenses not enumerated above as Reimbursable Expenses. These Reimbursables shall not be limited by the Maximum Amount agreed to above. A separate Maximum Amount for these Reimbursables shall be established.

B. 3.0 Additional Services

B. 3.1 Payment for Additional Services. The Owner will pay the Design Professional only for Additional Services agreed to in an addendum or amendment to this Agreement executed by the Owner and the Design Professional pursuant to A.2. Payment for all such Additional Services shall be in an amount and upon the terms set out in such amendment or addendum and agreed upon by the parties. Each such amendment or addendum shall provide for a fixed price or, where payment for such Additional Services is to be on an hourly basis or other unit pricing method, for a maximum amount; each such amendment or addendum shall also provide for a method of payment, including, at a minimum, whether payment will be made in partial payments or in lump sum and whether it will be based upon percentage of completion or services billed for.

B. 4.0 Invoicing and Payments

B. 4.1 Invoices. All payments shall require a written invoice from the Design Professional. Invoices shall be made no more frequently than on a monthly basis. Payments for Basic Services shall be in proportion to services completed within each phase of work. When requesting such payment, the invoice shall identify the phase and the portion completed. All invoices shall state the Agreement, name and address to which payment shall be made, the services completed and the dates of completion, and whether the invoice requests payment for Basic Services, Reimbursable or Additional Services. Invoices seeking payment for Reimbursable or Additional Services must provide detailed documentation.

B. 4.2 Time of Payment. Upon the Design Professional's proper submission of invoices for work performed or reimbursable expenses, the Owner shall review and, if the work is in conformance with the terms of the Agreement, make payment within thirty days of the Owner's receipt of the invoice.

Article C: Responsibilities

C. 1.0 Design Professional's Responsibilities

C. 1.1 Basic Services. The Design Professionals shall provide the Basic Service set out in Article A.1.0.

C. 1.2 Additional Services. When required under this Agreement or agreed to as set out in A.2.0, the Design Professional shall provide Additional Services on the Project.

C. 1.3 General Responsibilities. The Design Professional shall be responsible for the professional quality, technical accuracy, and coordination of all designs, drawings, specifications, and other services, furnished by the Design Professional under this Agreement. The Owner's review, approval, acceptance of, or payment for Design Professional services shall not be construed as a waiver of any rights under this Agreement or of any cause of action for damages caused by Design Professional's negligent performance under this Agreement. Furthermore, this Agreement does not restrict or limit any rights or remedies otherwise afforded the Owner or Design Professional by law.

C. 1.4 Designing Within Funding Limitations. The Design Professional shall perform services required under this Contract in such a manner so as to cause an award of a Construction Contract(s) that does not exceed (1) $ _______ or (2) an amount to be provided by the Owner in writing to the Design Professional prior to the commencement of Design Professional services. This fixed limit shall be called the Maximum Construction Contract Cost. The amount may be increased by the Owner, but only with written notice to the Design Professional. If the increase results in a change to the scope of work, an amendment to this Agreement will be required. The Design Professional and the Owner may mutually agree to decrease the Maximum Construction Contract Cost, but only by signing a written amendment to this Agreement. Should bids for the Construction Contract(s) exceed the Maximum Construction Contract Cost, the Owner has the right to require the Design Profes-
C. 1.5 Compliance with Laws, Codes, Ordinances and Regulations. The Design Professional shall perform services that conform to all applicable Federal, State and local laws, codes, ordinances and regulations except as modified by any waivers which may be obtained with the approval of the Owner. If the Project is within an Indian reservation, tribal laws, codes and regulations shall be substituted for state and local laws, codes, ordinances and regulations. However, on such a Native American Projects, the Owner may additionally designate that some or all state and local codes shall apply. In some of these circumstances, a model national building code may be selected by the Indian or Native American Owner. The Design Professional shall certify that Contract Documents will conform to all applicable laws, codes, ordinances and regulations. The Design Professional shall prepare all construction documents required for approval by all governmental agencies having jurisdiction over the project. The Design professional shall make all changes in the Bidding and Construction Documents necessary to obtain governmental approval without additional compensation or reimbursement, except in the following situations. If subsequent to the date the Owner issues a notice to proceed, revisions are made to applicable codes or non-federal regulations, the Design Professional shall be entitled to additional compensation and reimbursements for any additional cost resulting from such changes. The Design Professional, however, is obligated to notify the Owner of any significant code or regulatory changes within sixty (60) days of their change, and such notification shall be required in order for the Design Professional to be entitled to any additional compensation or reimbursement.

C. 1.6 Seal. Licensed Design Professionals shall affix their seals and signatures to drawings and specifications produced under this Agreement when required by law or when the project is located on an Indian Reservation.

C. 1.7 Attendance at Conferences. The Design Professional or designated representative shall attend project conferences and meetings involving matters related to basic services covered under this contract. Attendance at community wide meetings shall be considered an additional service.

C. 2.0 Owner's Responsibilities

C. 2.1 Information. The Owner shall provide information regarding requirements for the project, including a program that shall set forth the Owner's objectives and schedule. The Owner shall also establish and update the Maximum Construction Cost. This shall include the Owner's giving notice of work to be performed by the Owner or others and not included in the Construction Contract for the Project. The Design Professional, however, shall be responsible to ascertain and know federal requirements and limitations placed on the Project.

C. 2.2 Notice of Defects. If the Owner observes or otherwise becomes aware of any fault or defect in the construction of the project or nonconformance with the Construction Contract, the Owner shall give prompt written notice of those faults, defects or nonconformance to the Design Professional.

C. 2.3 Contract Officer. The Owner shall designate a Contract Officer authorized to act on its behalf with respect to the design and construction of the Project. The Contract Officer shall examine documents submitted by the Design Professional and shall promptly render decisions pertaining to those documents so as to avoid unreasonably delaying the progress of the Design Professional's work.

C. 2.4 Duties to Furnish. The Owner shall provide the Design Professional the items listed below.

C. 2.4.1 Survey and Property Restrictions. The Owner shall furnish topographic, property line and utility information as and where required. The Owner may at its election require the Design Professional to furnish any of these items as an Additional Service.

C. 2.4.2 Existing Conditions. The Owner shall provide the Design Professional any available "as-built" drawings of buildings or properties, architect surveys, test reports, and any other written information that it may have in its possession and that it might reasonably assume affects the work.

C. 2.4.3 Waivers. The Owner shall provide the Design Professional information it may have obtained on any waivers of local codes, ordinances, or regulations or standards affecting the design of the Project.

C. 2.4.4 Minimum Wage Rates. The Owner shall furnish the Design Professional the schedule of minimum wage rates approved by the U.S. Secretary of Labor for inclusion in the solicitation and Contract Documents.

C. 2.4.5 Tests. When expressly agreed to in writing by both the Owner and the Design Professional, the Owner shall furnish the Design Professional all necessary structural, mechanical, chemical or other laboratory tests, inspections and reports required for the Project.

C. 2.4.6 Contract Terms. The Owner or its legal counsel may provide the Design Professional text to be incorporated into Bidding and Construction Contract Documents.

Article D: Contract Administration

D. 1.0 Prohibition of Assignment. The Design Professional shall not assign, subcontract, or transfer any services, obligations, or interest in this Agreement without the prior written consent of the Owner. Such consent shall not unreasonably be withheld when such assignment is for financing the Design Professional's performance.

D. 1.1 Ownership of Documents. All drawings, specifications, studies and other materials prepared under this contract shall be the property of the Owner and at the termination or completion of the Design Professional's services shall be promptly delivered to the Owner. The Design Professional shall have no claim for further employment or additional compensation as a result of exercise by the Owner of its full rights of ownership. It is understood, however, that the Design Professional does not represent such data to be suitable for re-use on any other project or for any other purpose. If the Owner re-uses the subject data without the Design Professional's written verification, such re-use will be at the sole risk of the Owner without liability to the Design Professional.

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D. 1.2 Substitutions.

A. The Design Professional shall identify in writing principals and professional level employees and shall not substitute or replace principals or professional level employees without the prior approval of the Owner which shall not unreasonably be withheld.

B. The Design Professional’s personnel identified below are considered to be essential to the work effort. Prior to diverting or substituting any of the specified individuals, the Design Professional shall notify the Owner reasonably in advance and shall submit a written justification, including proposed substitutions, in sufficient detail to permit evaluation of the impact on the contract. No diversion or substitution of such key personnel shall be made by the Design Professional without the prior written consent of the Owner.

D. 1.3 Suspension. The Owner may give written notice to the Design Professional to suspend work on the project or any part thereof. The Owner shall not be obligated to consider a claim for additional compensation if the Design Professional is given written notice to resume work within 120 calendar days. If notice to resume work is not given within 120 calendar days, the Design Professional shall be entitled to an equitable adjustment in compensation.

D. 1.4 Subcontracts. The Design Professional will cause all applicable provisions of this Agreement to be inserted in all its subcontracts.

D. 1.5 Disputes. In the event of a dispute arising under this Agreement, the Design Professional shall notify the Owner promptly in writing and submit its claim in a timely manner. The Owner shall respond to the claim in writing in a timely manner. The Design Professional shall proceed with its work hereunder in compliance with the instructions of the Owner, but such compliance shall not be a waiver of the Design Professional’s rights to make such a claim. Any dispute not resolved by this procedure may be determined by a court of competent jurisdiction or by consent of the Owner and Design Professional by other dispute resolution methods.

D. 1.6 Termination. The Owner may terminate this Agreement for the Owner’s convenience or for failure of the Design Professional to fulfill contract obligations. The Owner shall terminate by delivering to the Design Professional a Notice of Termination specifying the reason therefore and the effective date of termination. Upon receipt of such notice, the Design Professional shall immediately discontinue all services affected and deliver to the Owner all information, reports, papers, and other materials accumulated or generated in performing this contract whether completed or in process. If the termination is for convenience of the Owner, the Owner shall be liable only for payment for accepted services rendered before the effective date of termination.

D. 1.7 Insurance. The Design professional shall carry Commercial or Comprehensive General Liability Insurance, Professional Liability Insurance (for a period extending two years past the date of completion of construction), and other insurance as required by law, all in minimum amounts as set forth below. The Design Professional shall furnish the Owner certificates of insurance and they shall state that a thirty day notice of prior cancellation or change will be provided to the Owner. Additionally, the Owner shall be an additional insured on all Commercial or Comprehensive General liability policies.

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D. 1.8 Retention of Rights. Neither the Owner’s review, approval or acceptance of, nor payment for, the services required under this contract shall be construed to operate as a waiver of any rights under this contract or of any cause of action arising out of the performance of this contract, and the Design Professional shall be and remain liable to the Owner in accordance with the applicable law for all damages to the Owner caused by the Design professional’s negligent performance of any of the services furnished under this contract.

Article E: Additional Requirements

E. 1.0 Contract Provisions Required by Federal Law or Owner Contract with the U.S. Department of Housing and Urban Development (HUD).

E. 1.1 Contract Adjustments. Notwithstanding any other term or condition of this Agreement, any settlement or equitable adjustment due to termination, suspension or delays by the Owner shall be negotiated based on the cost principles stated at 48 CFR Subpart 31.2 and conform to the Contract pricing provisions of 24 CFR 85.36 (f).

E. 1.2 Additional Services. The Owner shall perform a cost or price analysis as required by 24 CFR 85.36 (f) prior to the issuance of a contract modification/amendment for Additional Services. Such Additional Services shall be within the general scope of services covered by this Agreement. The Design Professional shall provide supporting cost information in sufficient detail to permit the Owner to perform the required cost or price analysis.

E. 1.3 Restrictive Drawings and Specifications. In accordance with 24 CFR 85.36(c)(3)(i) and contract agreements between the Owner and HUD, the Design Professional shall not require the use of materials, products, or services that unduly restrict competition.

E. 1.4 Design Certification. Where the Owner is required by federal regulations to provide HUD a Design Professional certification regarding the design of the Projects (24 CFR 968.235), the Design Professional shall provide such a certification to the Owner.
E. 1.5 Retention and Inspection of Records. Pursuant to 24 CFR 85.26(i)(10) and (11), access shall be given by the Design Professional to the Owner, HUD, the Comptroller General of the United States, or any of their duly authorized representatives, to any books, documents, papers, and records of the Design Professional which are directly pertinent to that specific Contract for the purpose of making an audit, examination, excerpts, and transcription. All required records shall be retained for three years after the Owner or Design Professional and other subgrantees make final payments and all other pending matters are closed.

E. 1.6 Copyrights and Rights in Data. HUD has no regulations pertaining to copyrights or rights in data as provided in 24 CFR 85.36. HUD requirements, Article 45 of the General Conditions to the Contract for Construction (form HUD-O-5370) requires that contractors pay all royalties and license fees. All drawings and specifications prepared by the Design Professional pursuant to this contract will identify any applicable patents to enable the general contractor to fulfill the requirements of the construction contract.

E. 1.7 Conflicts of Interest. Based in part on federal regulations (24 CFR 85.36(b)) and Contract agreement between the Owner and HUD, no employee, officer, or agent of the Owner (HUD grantee) shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved.

Such a conflict would arise when:

(i) The employee, officer or agent,
(ii) Any member of his or her immediate family,
(iii) His or her partner, or
(iv) An organization that employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award. The grantee’s or subgrantee’s officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from Contractors, or parties to sub-agreements. Grantees and subgrantees may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value. To the extent permitted by State or local law or regulations, such standards or conduct will provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the grantee’s and subgrantee’s officers, employees, or agents or by Contractors or their agents. The awarding agency may in regulation provide additional prohibitions relative to real, apparent, or potential conflicts of interest.

Neither the Owner nor any of its contractors or their subcontractors shall enter into any Contract, subcontract, or agreement, in connection with any Project or any property included or planned to be included in any Project, in which any member, officer, or employee of the Owner, or any member of the governing body of the locality in which the Project is situated, or any member of the governing body of the locality in which the Owner was activated, or in any other public official of such locality or localities who exercises any responsibilities or functions with respect to the Project during his/her tenure for one year thereafter has any interest, direct or indirect. If any such present or former member, officer, or employee of the Owner, or any such governing body member or such other public official of such locality or localities involuntarily acquires or had acquired prior to the beginning of his/her tenure any such interest, and if such interest is immediately disclosed to the Owner and such disclosure is entered upon the minutes of the Owner, the Owner, with the prior approval of the Government, may waive the prohibition contained in this subsection: Provided, That any such present member, officer, or employee of the Owner shall not participate in any action by the Owner relating to such contract, subcontract, or arrangement.

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

E. 1.8 Disputes. In part because of HUD regulations (24 CFR 85.36(i)(1)), this Design Professional Agreement, unless it is a small purchase contract, has administrative, contractual, or legal remedies for instances where the Design Professional violates or breaches Agreement terms, and provide for such sanctions and penalties as may be appropriate.

E. 1.9 Termination. In part because of HUD regulations (24 CFR 85.36(i)(2)), this Design Professional Agreement, unless it is for an amount of $10,000 or less, has requirements regarding termination by the Owner when for cause or convenience. These include the manner by which the termination will be effected and basis for settlement.

E. 1.10 Interest of Members of Congress. Because of Contract agreement between the Owner and HUD, no member 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 from it.

E. 1.11 Limitation of Payments to Influence Certain Federal Transaction. The Limitation on Use of Appropriated Funds to Influence Certain Federal Contracting and Financial Transactions Act, Section 1352 of Title 31 U.S.C., provides in part that no appropriated funds may be expended by recipient of a federal contract, grant, loan, or cooperative agreement to pay any person, including the Design Professional, for influencing or attempting to influence an officer or employee 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.


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 worksite 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 sub-contract 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 the contract for default, and debarment or suspension from future HUD assisted contracts.

G. Reserved.

H. Reserved.

E. 1.13 Reserved.

E. 1.15 Energy Efficiency. Pursuant to Federal regulations (24 C.F.R. 85.36(i)(13)) and Federal law, except when working on an Indian housing authority project on an Indian reservation, the Design Professional shall comply with the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163 codified at 42 U.S.C.A. § 6321 et. seq.).

E. 1.16 Prevailing Wages. In accordance with Section 12 of the U.S. Housing Act of 1937 (42 U.S.C. 1437j) the Design Professional shall pay not less than the wages prevailing in the locality, as determined by or adopted (subsequent to a determination under applicable State or local law) by the Secretary of HUD, to all architects, technical engineers, draftsmen, and technicians.

E. 1.17 Non-applicability of Fair Housing Requirements in Indian Housing Authority Contracts. Pursuant to 24 CFR section 905.115(b) title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d-2000d-4), which prohibits discrimination on the basis of race, color or national origin in federally assisted programs, and the Fair Housing Act (42 U.S.C. 3601-3620), which prohibits discrimination based on race, color, religion, sex, national origin, handicap, or familial status in the sale or rental of housing do not apply to Indian Housing Authorities established by exercise of a Tribe’s powers of self-government.

E. 1.18 Prohibition Against Liens. The Design Professional is prohibited from placing a lien on the Owner’s property. This prohibition shall be placed in all design professional subcontracts.

Article F: Other Owner Requirements (if any)

(Continue on additional pages as necessary)
This Agreement is entered into as of the day and year first written above.

Owner

(Housing Authority)

(Signature)

(Print Name)

(Print Title)

Design Professional

(Firm)

(Signature)

(Print Name)

(Print Title)
This is an Addendum to a Standard Form of Agreement between Owner and Design Professional signed and dated the ______ day of ______ in the year (yyyy) of ______ between the Owner ___________________________ and Design Professional ____________________________ on Project _____________________________. The parties to that Agreement agree to modify the Agreement by the above delineated Additional Services and modifications.

This Addendum is dated this ______ day of ______ in the year (yyyy) of ______

Owner

(Housing Authority)

(Signature)

(Print Name)

(Print Title)

Design Professional

(Firm)

(Signature)

(Print Name)

(Print Title)
HABD AGREEMENT FOR SERVICES
AGREEMENT FOR SERVICES
(Contractor's Legal Name)

This Agreement (Agreement) is made this the _____ day of ____________, 20__, between the Housing Authority of the Birmingham District (HABD), a public housing agency with its principal office located at 1826 Third Avenue, South, Birmingham Alabama 35233 and Contractors Legal Name (Contractor) located at 0000 Lake Drive, Birmingham, Alabama 35200.

WHEREAS, the HABD has determined the need to contract for on-call Services for all HABD complexes and offices as needed; and

WHEREAS, Contractor has submitted a ________________________ that substantially conforms to the specifications for providing the services;

THEREFORE, in consideration of the mutual covenants herein provided, the parties do hereby agree to the terms and conditions as follows:

1. SCOPE OF SERVICES

1.1 The Contractor shall provide services as the Contractor for all HABD Management Offices, Central Office and Housing Communities where services are requested.

1.2 The Contractor's compensation will cover all labor, equipment, tools, supervision, and other items necessary to perform these services excluding materials.

1.3 The Contractor shall provide a written report upon completion of all maintenance indicating the services performed and readings taken, along with notation of any special concerns that warrant further attention. All services shall be performed in compliance with applicable Federal, State and Local laws and regulation.

1.4 The Contractor shall provide services consistent with _____ No. 00-00 labeled as Exhibit A, attached hereto and incorporated herein by referenced as though fully set forth.

2. COMPENSATION

2.1 The Contractor shall be compensated in an amount of ___________________ ($000.00) for the services encompassed by this Agreement. The Contractor acknowledges, understands and agrees that this is a fixed price Agreement, not subject to alterations or modification of the cost of the work specified. The contract amount stated herein is inclusive of all work, expenses, travel, labor, equipment, tools, services, transportation, water, lights, heat, power, security, and supervision used in the performance of the work specified. Further, the hourly rate includes all fringe benefits, profit, overhead, general and administrative costs.

2.2 The Contractor shall submit for payment itemized invoices for hourly compensation and cost of materials to the HABD Contract Administrator, subject to documentation and verification of work performed and materials used, and approval of payment by the Contracting Officer (Executive Director) if applicable. All approved invoices will be paid within 30 days. Invoices not received within sixty (60) days of work order completion will not be paid. The Contract Administrator is defined as the HABD representative designated to oversee implementation of the Agreement on behalf of the HABD. The Contract Administrator for this Agreement will be the Director of Facilities or successor thereof, and the Co-Administrators are the Property Managers or successor thereof, of the individual housing communities or as otherwise designated in writing by the Contracting Officer.

Parties Initial/Date: HABD / ____________ Contractor / ____________

Page 1 of 7
for this Agreement. The Director of Finance and Accounting, successor thereof, shall give authorization for disbursement of payments for properly completed requests for payments. Any insufficient documentation shall be returned to the Contractor and must be resubmitted to HABD with any and all additional information as requested by HABD.

3. TERM OF AGREEMENT
3.1 The term of this Agreement shall be for a period of ___ months beginning on the ___ day of ___________ 20_ and ending on the ___ day of ___________ 20_. The Contract will not bind, nor purport to bind HABD to any obligations the Contractor may have made with any of its suppliers; vendors or subcontractors in relation to a contract awarded hereunder which exceeds the termination date of the Contract between HABD and Contractor. At HABD’s option, this agreement may be extended for up to two (2) one-year extensions.

4. NON-RECOUPSE
4.1 No member, official, employee, agent or consultant of the HABD shall be personally liable to, the Contractor, or any successor in interest or person claiming by, through or under the Contractor, in the event of any default or breach, for or on account of any amount which may be or become due, or in any claim, cause or obligation whatsoever under the terms of this Agreement.

5. ASSIGNMENT - SUBCONTRACTING - TRANSFER
5.1 The HABD encourages the participation of disadvantaged and historically underutilized businesses and HABD residents in the performance of contractual services, where such services may be subcontracted. In the event the Contractor determines such subcontracts are needed, the Contractor will make good faith affirmative efforts to utilize businesses owned by HABD residents, disadvantaged and historically underutilized businesses in the performance of the work under this contract.

5.2 The Contractor shall not enter into any subcontract with any contractor who has been temporarily denied participation in any Housing and Urban Development (HUD) program or who has been disbarred by any agency of the United States Government or the State of Alabama from performing the work specified.

5.3 In the event the Contractor will use subcontractors in the performance of the services under this Agreement, the Contractor will submit a list of all prospective subcontractors to the HABD prior to the commencement of the work. The HABD may disapprove the use of any subcontractor for cause (including its convenience) stated to the Contractor. The HABD’s approval, disapproval, or election not to disapprove does not create an assumption of liability for acts or omissions of the Contractor or subcontractor. The provisions of this Agreement shall not create a contractual relationship between HABD and any subcontractor, the Contractor hereby acknowledging that HABD specifically disclaims any such contractual relationship.

5.4 The Contractor shall not assign or transfer any interest in this contract; except that claims for monies due or to become due from the HABD 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 HABD in writing.

6. DISCRIMINATION PROHIBITED
6.1 The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, age, gender, disability, Vietnam or other veteran status, or national origin. The Contractor acknowledges, understands and agrees that this prohibition shall include all forms of harassment, including sexual harassment of residents or employees of HABD. The Contractor shall certify and maintain compliance with Executive Order 11246, The Rehabilitation Act of 1973, and The Vietnam Era Veterans' Readjustment Assistance Act.

6.2 The Contractor further agrees not to discriminate against any subcontractor on the basis of race, gender, disability, color, religion, age, Vietnam or other veteran status, and shall, consistent with applicable federal law, take affirmative steps toward utilizing such services.

7. CONFLICT OF INTEREST
7.1 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 that may arise therefrom. Further, no member, officer, or employee of the HABD, no member of the governing body of the locality in which HABD was activated, and no other public official of such locality who exercises any functions or responsibilities with respect to the HABD, shall, within her or his tenure, or for one year thereafter, have any interest, direct or indirect, in this contract or the proceeds thereof.

7.2 The Contractor covenants that neither it nor any of its directors, officers, partners, associates or employees has any interest, nor shall acquire any interest, directly or indirectly, which would conflict in any manner or degree with the performance of services hereunder. The Contractor further covenants that in the performance of this Agreement, no person having such interest shall be employed by it in relation to the performance of the services that are the subject of this Agreement or in any conflict of interest matter with HABD. Violation of this provision may result in immediate termination of any and all contracts with the Contractor.

8. GRATUITIES-KICKBACKS
8.1 The HABD's officers, employees or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors or parties to sub-agreements, and shall not knowingly use confidential information for actual or anticipated personal gain. However, unsolicited gifts with an aggregate value of less than twenty-five dollars ($25.00) a year, from any single contractor, may be accepted, provided that no particular course of action is required as a condition to receive the gift. The Contractor warrants that s/he has not paid and will not pay gratuities, favors, or anything of monetary value to an officer, employee or agent of the HABD or to any person for influencing or attempting to influence an officer or employee of any agency, Member of Congress or employee of a Member of Congress, or any officer or employee of Congress in connection with the awarding of any HABD contract. Violation of this provision may result in immediate termination of this Agreement. Conversely, solicitation and acceptance of gifts are allowed for HABD approved Family Self-Sufficiency and Section 3 Programs.

9. TERMINATION OF THE CONTRACT FOR CONVENIENCE AND DEFAULT
9.1 The HABD may terminate this contract in whole, or from time to time in part, for the HABD's convenience or the failure of the Contractor to fulfill the contract obligations (default). The HABD 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 HABD all information, reports, papers, and other materials accumulated or generated in performing this contract, whether completed or in process.

Parties Initial/Date: HABD _____ / _____ Contractor _____ / _____  Page 3 of 7
9.2 If the termination is for the convenience of the HABD, the HABD shall be liable only for payment for services rendered before the effective date of the termination.

9.3 If the termination is due to the failure of the Contractor to fulfill its obligations under the contract (default), the HABD may (i) require the Contractor to deliver to it, in the manner and to the extent directed by the HABD, 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 HABD; (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 HABD by the Contractor.

9.4 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 HABD, and the Contractor shall be entitled to payment as described in paragraph (b) above.

10. DISPUTE RESOLUTION PROCEDURE
10.1 The Contractor shall refer any controversy or dispute arising under this Agreement to the Contract Administrator. If the Contractor and the Contract Administrator fail to agree as to the resolution of the dispute or controversy, the Contractor shall give written notice (not later than five (5) calendar days after the conference) of the controversy to the Executive Director. The parties agree that the Executive Director, within her discretion, may refer the matter for alternative dispute resolution if deemed in the best interest of an expedient, cost effective, equitable resolution for the parties. The decision of the Executive Director will be binding on both parties hereto, except as the same may be modified by an arbitrator. The Contractor acknowledges, understands and agrees that compliance with the procedure for this section is a condition precedent to enforcement of any dispute under this Agreement by arbitration; it will operate as a full, complete, and final bar to arbitration by the Contractor, on any matter or cause arising pursuant to the subject matter of this Agreement and any provision hereof, if not utilized or not utilized in good faith for resolution of disputes where the arbitration remedy is later sought pertaining to any aspect of this Agreement and related transactions. This Section supersedes Clause 7 "Disputes" of the HUD 5370 C General Conditions for Non-Construction Contracts in Exhibit A.

11. ARBITRATION
11.1 Any dispute, claim or controversy arising out of or relating to this contract, or the breach, termination, enforcement or validity thereof, shall be settled by binding arbitration in Birmingham, Alabama, administered by the National Arbitration Forum (NAF) under its Code of Procedure, currently in effect, and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. There shall be one arbitrator, named in accordance with the procedure. The parties are waiving their right to seek remedies in court, including the right to jury trial. The arbitration will be conducted in accordance with the Federal Arbitration Act (FAA). The arbitrator shall decide the dispute in accordance with the substantive law of the state of Alabama. This Section supersedes Clause 7 "Disputes" of the HUD 5370 C General Conditions for Non-Construction Contracts in Exhibit A.

12. SEVERABILITY
12.1 If an arbitrator finds any provision of this Agreement to be void and/or unenforceable, the parties hereto agree that those provisions of the Agreement not directly affected by the void and/or unenforceable provision shall continue in full force and effect.

Parties Initial/Date: HABD ______/_______  Contractor ______/_______
13. COMPLIANCE WITH LAWS AND REGULATIONS
13.1 The Contractor shall give all notices and comply with all applicable laws, ordinances, codes, rules, and regulations as they exist or may be amended during performance of this contract.

14. MODIFICATIONS
14.1 The terms and conditions contained in this Agreement may not be added to, modified, superseded or otherwise altered except by agreement of the parties in a written instrument signed by the parties. The work and services of the Contractor shall be deemed to be only upon the terms and conditions contained in this Agreement and consistent with Clause 2 "Changes" in the HUD form 5370 C General Conditions for Non-Construction in Exhibit A. Notwithstanding any terms or conditions that may be contained in any acknowledgment, invoice, or other form or writing of the Contractor or any of its subcontractors, and notwithstanding HABD's act of receiving or paying for any nonconforming work, report or services, or any similar action on the part of HABD.

15. CONSTRUCTION - HEADINGS - CONFLICTS IN LANGUAGE
15.1 In the event there is any conflict between the language found in Exhibit A and the language in the body of this instrument, the terms expressed in the body of this instrument shall be controlling.

15.2 When, in this Agreement, a pronoun is used, it shall be construed to represent the singular or the plural, either the masculine or the feminine, as the case shall demand.

15.3 The headings in this Agreement are inserted for convenience only and shall not be used to define, limit, or describe the scope of this Agreement or any of the obligations herein.

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

16.2 It is understood that persons engaged or employed by the Contractor as employees, agents, or independent agents shall be engaged or employed by the Contractor and not by the HABD. The Contractor alone is responsible for their work, direction, compensation and personal conduct. Nothing included in any provision of this Agreement shall impose any liability or duty upon the HABD to persons, firms, or corporations employed or engaged by Contractor in any capacity whatsoever, or make the HABD liable to any such persons, firms, or corporations, or to any government, for the acts, omissions, liabilities, obligations, and taxes, of whatever nature, of the Contractor or of its employees, agents, or independent agents.

16.3 No remedy herein provided shall be deemed exclusive of any other remedy allowed at law or in equity.
16.4 The failure of either party to insist in any one or more cases upon the strict performance of any of the other party’s obligations under this Agreement or to exercise any right or remedy herein contained shall not be construed as a waiver or a relinquishment for the future of such obligation, right or remedy. No waiver by either party of any provision of this Agreement shall be deemed to have been made unless specifically set forth in writing as such waiver and signed by that party.

17. THIRD PARTY RIGHTS / OTHER RELATIONSHIPS
17.1 Neither this Agreement, nor any act of HUD or HABD, shall be deemed or construed as creating any right of any third party to enforce any provision hereof or to assert any claim against the HABD. Nothing contained in the Annual Contributions Contract (ACC) or this Agreement, nor any act of HABD or HUD, shall be deemed to create any relationship of third party beneficiary, principal and agent, limited or general partnership, joint venture, or any association or relationship involving HUD, except between HUD and HABD as provided under the terms of the ACC.

17.2 No partner, officer, director, shareholder, employee, agent, or other person authorized to act for and on behalf of either party shall be personally liable for any obligation hereunder, express or implied.

18. NOTICES
18.1 Any notice or other communication given or made pursuant to this Agreement shall be in writing and shall be deemed given if (a) delivered personally or by courier; (b) telecopied; (c) sent by overnight express delivery; or (d) mailed by registered or certified mail (return receipt requested), postage prepaid, to a party at its respective address as set forth in the first paragraph of this Agreement (or at such other address as shall be specified by the party by like notice given to the other party).

18.2 All such notices and other communications shall be deemed given on the date of personal or local courier delivery, telecopy transmission, delivery to overnight courier or express delivery service, or deposit in the United States mail, and shall be deemed to have been received (a) in the case of personal or local courier delivery, on the date of such delivery; (b) in the case of telecopy, upon receipt of electronic confirmation thereof (provided that the sender shall have given simultaneous notice by another method approved herein); (c) in the case of delivery by overnight courier or express delivery service, on the date following dispatch, and (d) in the case of mailing, on the date specified in the return receipt therefor.

19. BEASON-HAMMON ACT/E-VERIFY
19.1 By signing this contract, the Contracting parties affirm, for the duration of the agreement, that they will not violate federal immigration law or knowingly employ, hire for employment, or continue to employ an unauthorized immigrant within the state of Alabama. Furthermore, a contracting party found to be in violation of this provision shall be deemed in breach of the agreement and shall be responsible for all damages resulting therefrom.

20. ENTIRE AND FINAL AGREEMENT
20.1 The parties agree, understand and acknowledge that this written instrument, including the Arbitration Clause, along with the heretofore attached Exhibit A constitutes the entire Agreement of the parties and that neither party is responsible for nor bound by any terms or conditions not contained herein. This Agreement constitutes the final understanding and agreement between the parties with respect to the subject matter hereof and supersedes all prior negotiations, understandings and agreements between the parties, whether oral or written. This Agreement may be amended,
supplemented or changed only by advance written Agreement for modification, authorized in accordance with the provisions of Section 14 hereof.

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

CONTRACTOR NAME

By: __________________________
Print
Name __________________________
Its: __________________________
Date: __________________________

APPROVED AS TO FORM AND CONTENT:

Compliance Counsel __________________________ Date __________________________

HOUSING AUTHORITY OF THE BIRMINGHAM DISTRICT

By: __________________________

Date: __________________________

Parties Initial/Date: HABD _______/ ________ Contractor _______/ ________
PROFILE OF FIRM FORM
HOUSING AUTHORITY BIRMINGHAM DISTRICT

PROFILE OF FIRM FORM (Page 1 of 2)

(1) Prime _______ Joint Venture/Partner _____ Sub-contractor ____ (This form shall be completed by and for each).

(2) Name of Firm: ___________________________ Telephone: ____________ Fax: ____________

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

(4) Identify Principals/Partners in Firm

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<th>NAME</th>
<th>TITLE</th>
<th>% OF OWNERSHIP</th>
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(5) Please indicate the operating structure of your company.

☐ Publicly Held Corporation ☐ Privately Held Corporation ☐ Government Agency ☐ Non-Profit Organization ☐ Partnership ☐ Sole Proprietorship

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

Minority (MBE), or Woman-Owned (WBE) Business Enterprises qualify by virtue of 51% or more ownership and active management by one or more of the following:

☐ African American ☐ **Native American ☐ Hispanic American ☐ Asian/Pacific American ☐ Hasidic Jew ☐ Asian/Indian American

% % % % % %

☐ Woman-Owned (MBE) ☐ Woman-Owned (Caucasian) ☐ Disabled Veteran ☐ Caucasian American (Male) ☐ Other (Specify):

% % % % % %

(7) Is the business 51% or more owned by a public housing resident? ____ Yes ____ No. If yes, provide name and address of the public housing facility:

Facility Name: ____________________________________________

Facility Address: _________________________________________ City: ______________________________

SWMBE Certification Number: _____________________________

Certification Agency: _____________________________________

(NOTE: A CERTIFICATION/NUMBER IS NOT REQUIRED – ENTER IF AVAILABLE)

(8) Federal Tax ID Number: ________________________________

(9) City of Birmingham License No.: _________________________
(10) State of Alabama License No.: ____________________________

(11) Has your firm or any member of your firm been a party to litigation with a public entity? If yes, when with whom and state the circumstances and any resolution.

__________________________________________________________________________

(12) Has your firm or any member of your firm ever sued or been sued by the Housing Authority of the Birmingham District or its affiliated entities? If yes, when and state the circumstances and any resolution of the lawsuit.

__________________________________________________________________________

(13) Has your firm or any member of your firm ever had a claim brought against because of breach of contract or nonperformance? If yes, when and state the circumstances and any resolution of the matter.

__________________________________________________________________________

(14) Debarred Statement: Has this firm or any principal(s) ever been debarred from providing any services by the federal Government, any state government, the State of Alabama, or any local government agency within or without the State of Alabama? Yes ☐ No ☐

Initials ______

(15) Disclosure Statement: Does this firm or any principal(s) thereof have any current, past, personal or professional relationship with any Commissioner or Officer of the HABD? Yes ☐ No ☐

Initials ______

(16) Non-Collusive Affidavit: The undersigned party submitting this proposal hereby certifies that such bid is genuine and not collusive and that said Offerer has not colluded, conspired, connived or agreed, directly or indirectly, with any Offerer or person, to put in a sham bid or to refrain from bidding, and has not in any manner, directly or indirectly sought by agreement or collusion, or communication or conference, with any person, to fix the bid price or affiant or of any advantage against the HABD or any person interested in the proposed contract; and that all statements in said proposal are true. (See Attachment.....)

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

(18) In performing this contract, the contractor(s) shall comply with any and all applicable federal, state or local laws including but not limited to: Occupational Safety & Health, Equal Employment Opportunity, Immigration and Naturalization, The Americans with Disabilities Act, State Tax and Insurance Law, and the Fair Housing Act.

Signature    Date    Printed Name    Company
State of ________________

County of ________________

______________________________, being first duly sworn, deposed and says that he/she is a partner or officer of the firm of, ________________, the party making the foregoing submission or bid, that such submission or bid is genuine and not collusive or sham; that said bidder has not colluded, conspired, connived or agreed, directly or indirectly, with any bidder or person, to put in a sham bid or to refrain from bidding, and has not in any manner, directly or indirectly, sought, by agreement or collusion, or communication or conference, with any person to fix the bid price of affiant or any other bidder, or to fix overhead, profit or cost element of said price, or that of any other bidder, or to secure any advantage against the Housing Authority of the Birmingham District, of any personal interest in the proposed contract; and, that all statements in said submission or bid are true.

Signed: _________________________

(Proposer, if the is an individual;
Partner, if the proposer is a partnership;
Officer, if the proposer is a corporation)

Subscribed and sworn to before me this day of ____________, 202__.

My commission expires ____________, 202__.
HABD CERTIFICATION OF NON-DISCRIMINATION

The offeror/bidder agrees and warrants that in the performance of the contract, if awarded, such contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of race, color, gender, religion, creed, age, familial status, national origin, veteran status, or disability. The supplier further agrees to take affirmative action to ensure that applicants with job-related qualifications are employed and that employees are treated when employed without regard to their race, color, gender, religion, creed, age, familial status, national origin, veteran status, or disability. It is understood that non-discrimination shall include all forms of harassment and specifically sexual harassment. The contractor hereby certifies the foregoing and that the contractor will adhere to and enforce all applicable federal, state and local laws pertaining to non-discrimination.

Authorized Signature:

For: ________________________________

Company Name

By: _________________________________

Date: ________________________________
SECTION 3 CLAUSE ACKNOWLEDGEMENT
SECTION 3 CLAUSE ACKNOWLEDGEMENT

Economic Opportunities for Low- and Very Low-Income Persons (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 section 3 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.

I have read and understand these requirements of this Section 3 funded project:

Business Name:

Business Address:

Print Name:

_________________________ ________________________
Signature Date
SECTION 3 BUSINESS CONCERN SELF-CERTIFICATION
**SECTION 3 BUSINESS CONCERN SELF-CERTIFICATION FORM**

Please return this form to the following address:

**Section 3 Coordinator**  
**Housing Authority of the Birmingham District**  
1826 3rd Avenue S  
Birmingham, AL 35233

The HABD's Section 3 Self Certification  
For assistance completing the online application, please call  
Phone: 205-521-0614

---

**Section 3 Business Criteria:** Your business is eligible for Section 3 Business Certification if it meets any one of the following criteria. Please note that the definition of Section 3 qualified person is on Section 3 Form #3, "Section 3 Resident Self-Certification Form."

- 1. Fifty-one percent or more of your business is owned by a Section 3 resident or residents.
- 2. Thirty percent or more of your permanent, full-time employees are Section 3 residents.
- 3. You can provide evidence of a commitment to subcontract in excess of 25 percent of the amount of all subcontracts to Section 3 businesses: (a) that are fifty-one percent or more owned by public housing residents or (b) that has thirty percent or more of their permanent, full-time employees as public housing residents.

---

**Section 3 Business Certification Statement:** I hereby certify to the U.S. Department of Housing and Urban Development (HUD) and to the Housing Authority of the Birmingham District that all of the information on this form is true and correct. I understand that it is my responsibility to conduct any due diligence necessary to make this certification and to maintain documentation establishing my Section 3 Business concern status. I also understand that failure to complete this form completely and accurately may result in debarment or other administrative remedies available to HUD, and criminal or civil penalties under federal, state, and local laws.

- My business is a Section 3 business in accordance with the standard checked above under Section 3 Business Criteria.
- My business is not a Section 3 business.

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<th>Date Signed:</th>
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<tr>
<th>Type of Business: (Check One):</th>
<th>Corporation</th>
<th>Partnership</th>
<th>Sole Proprietorship</th>
<th>Other</th>
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SECTION 3 ASSURANCE OF COMPLIANCE AND ACTION PLAN
PART I-- Purpose: To ensure that regulations promulgated under 24 CFR Part 135 “Economic Opportunities for Low- and Very Low-Income Persons” is met, HABD has developed and approved a Section 3 Policy for HABD. Information on specific compliance with Section 3 is found in HABD’s Section 3 Policy, or in the regulations at 24 CFR Part 135.

This form, along with all related required documents included shall serve as the ‘assurance of compliance” certification and action plan as required in the bid documents, supplemental general conditions, and required forms for the contract for any HUD work funded by HABD.

Name of Business: __________________________________________________________

Business Address: _________________________________________________________

Contract Name/Solicitation #: _______________________________________________

Total amount of Bid: _________________________________________________________

PART II: PRIOR COMPLIANCE CERTIFICATION

I am certifying that my business has complied with the HUD Section 3 regulations in its past HUD contracts/purchase orders.

_________________________ ___________________________ __________
Signature/Title Print Name Date

PART III: IS SECTION 3 TRIGGERED BY THIS CONTRACT?

IF CONTRACTOR DOES NOT ANTICIPATE TRIGGERING THE SECTION 3 REGULATIONS, YOU MUST INITIAL BOTH BOXES BELOW:

☐ I do not anticipate hiring any new permanent, temporary, or seasonal employees on this contract.
☐ I do not anticipate subcontracting any portion of the work on this contract.

If you checked both boxes, do NOT check any other boxes or select any other options on this form!
Skip to the attestation and notarized signature on the final page of Section 3 Form #3.

IMPORTANT: IF THIS CHANGES AT ANY POINT DURING YOUR CONTRACT, you must immediately contact your HABD contract contact as well as the HABD Section 3 Coordinator.
PART IV: CONTRACTING/SUBCONTRACTING NEEDS:

If you plan to subcontract, please list the proposed subcontractors and amounts below. Attach a Section 3 Business Concern Self-Certification form for each Section 3 Business identified.

<table>
<thead>
<tr>
<th>Subcontractor Name</th>
<th>Work to be performed (Building trade or other type of work)</th>
<th>Are they Section 3 Business? Yes/No</th>
<th>Contract Amount</th>
<th>% of Total Contract</th>
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Total amount to be sub-contracted to Section 3 Business Concerns: $_________

Percentage of total $ value of bid/contract: __________________

IMPORTANT: Should the scope of work or needs of the contractor change, the contractor shall, to the greatest extent feasible, assure that subcontracts be awarded to Section 3 business concerns and shall immediately contact your HABD contract contact as well as the HABD Section 3 Coordinator.
**PART V: WORKFORCE NEEDS AND HIRING PLAN**

Preliminary Statement for Workforce Needs: HABD intends to meet Section 3 compliance at the highest level and it is our intent to identify any short-term and long-term employment or contracting opportunities for qualified Section 3 persons and business concerns during the course of your contract funded by HABD via its contractors. Please list the status of all planned employment position and opportunities for this contract. **Preference for all opportunities must be given to low- and very low-income residents if they qualify.** If awarded a contract, you are required to provide a list of your aggregate workforce on this project. Any changes to that workforce during the project will constitute new hires. You are hereby notified that you must notify HABD or contractor (respectively) overseeing your contract of any new hire opportunities that arise during the life of your contract. **Anticipated workforce list may be provided on a separate sheet or in a different format.**

<table>
<thead>
<tr>
<th>1. List Job Title/Trade</th>
<th>2. Total # of Employees Needed to complete Scope of Work by Job Title</th>
<th>3. Total # from Current Staff</th>
<th>4. Of the total # in column (3), how many are Section 3 hires within the past 3 years?</th>
<th>Total # of New Hires Needed (Column 2 - Column 3)</th>
<th>Total # of New Hires expected to be Section 3 Residents</th>
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**TOTALS**

Use an additional sheet if required
PART VI. OTHER REQUIREMENTS

Outreach Plan:
Check all methods you will employ to hire Section 3 residents. Posting the position in community sources that are generally available to low-income residents and the general public is a standard requirement. Check at least three (3) other methods you will employ:

- The local community newspaper(s)
- The most widely distributed newspaper
- HABD website
- HABD properties management offices in a conspicuous location
- Homeless service agencies
- Local HUD-supported housing communities
- Local Workforce Board
- Other locations as approved by HABD
- Email blast residents on the HABD Section 3 Resident List
- Post notices on social media controlled by HABD

Documentation of “To the Greatest Extent Feasible”:

The contractor will work with HABD Section 3 Coordinator and other designated staff to notify residents of any opportunities afforded under the contract. The contractor will collaborate with HABD by giving preference of any employment opportunities to the Section 3 persons or business concerns.

The contractor and subcontractor(s) shall recruit or attempt to recruit from HABD’s Section 3 area, based on the priority order in HABD’s Section 3 Plan, the necessary number of low-income and very low-income residents through documentation of their efforts and of any impediments to comply. HABD’s contractors and subcontractors shall:

1. Maintain a list of all low-income area residents who have applied, either on their own or from referral from any source, and employ such person if otherwise qualified and if a vacancy exists.

2. Review and consider the Section 3 Resident List provided by HABD prior to making new hires. If those hired are not Section 3 residents, or are in a lower preference category, the Contractor must explain in writing the qualifications that those on Section 3 Resident List lacked, or other reason for non-hire (e.g., job offer declined).

3. Provide evidence that the contractor has not filled vacant employment positions in its workforce immediately prior to undertaking work in an attempt to circumvent Section 3 regulations.

Review and determine if low-income and very low-income residents meet minimum hiring qualifications. Applicants meeting such minimum qualifications, but not hired due to lack of job openings or for other operations reasons, will be placed on a priority-hiring list and offered positions upon the occurrence of the first available appropriate job opening.
CONTRACTOR SECTION 3 ASSURANCE OF COMPLIANCE AND ACTION PLAN (p.5 of 7)

Recordkeeping:
The contractor shall maintain on file all records related to employment and job training of low-income and very low-income residents or other such records, advertisements, legal notices, brochures, flyers, publications, assurances of compliance from subcontractors, etc., in connection with this contract. If there is a report that is needed as part of the submission, you agree to provide it timely. The contractor shall, upon request, provide such records or copies of records to HABD, its staff, or agents.

Reports:
The contractor shall provide reports as required in connection with the contractor specifications. All certified and regular payrolls shall clearly detail which employees qualify under Section 3.

Certification:
The contractor will certify that any vacant employment positions, including training positions that filled:

(1) after the contractor is selected but before the contract is executed; and
(2) with persons other than Section 3 residents

were not filled to circumvent the subcontractor’s obligations under 24 CFR Part 135.

Other Economic Opportunities:
If a contractor has demonstrated that it has no need or plans to subcontract or hire, or that can demonstrate that it has attempted, to the greatest extent feasible, to meet Section 3 hiring and contracting goals but cannot, may provide other economic opportunities to Section 3 residents and business concerns as described in the HABD Section 3 Policy. These opportunities must be described in a written plan on how the contractor will offer other economic opportunities. A contractor that has a need to hire or sub-contract may not use other economic opportunities as a substitute to attempt to meet hiring or contracting goals; the contractor must still demonstrate how it attempted to the greatest extent feasible, to meet the goals.

Grievance and Compliance:
The contractor or sub-contractor hereby acknowledges that they understand that any low-income and very low-income resident of the project area, for him/her or as representatives of persons similarly situated, seeking employment or job training opportunities in the project area, or any eligible business concerns seeking contract opportunities may file a grievance if efforts to the greatest extent feasible were not executed. The grievance must be filed with HUD not later than one hundred eighty (180) calendar days from the date of the action (or omission) upon which the grievance is based.

SECTION 3 CONTRACT COMPLIANCE CURE AND TERMINATION PROCESSES

This language is a component of contract compliance with the work contractors and sub-contractors including developers respond to in HABD solicitations. The full requirements are provided in the Section 3 Clause found elsewhere in this package or in the HUD forms 5370-C or 5370 C1 as may be applicable.
CONTRACTOR SECTION 3 ASSURANCE OF COMPLIANCE AND ACTION PLAN (p.6 of 7)

All contractors claiming a Preference in contracting by meeting any of the three Preference requirements including a Resident Owned Business, Hiring 30% of New Hires and/or Sub-contracting at least 25% of total award to a Section 3 Concern shall maintain that status throughout the life of the contract. Failure to meet this requirement will result in penalties up to and including contract termination. Any contractor triggering the regulation by doing any hiring or contracting once they are awarded the contract through contract execution must comply with the Section 3 requirements by executing the efforts on their Certification and Action Plan in accordance with the HABD Section 3 Action Plan.

HABD shall execute these remedies to achieve compliance in this order:

A. Based on the first observation or report of non-compliance with Section 3, the contractor will be sent an e-mail from HABD notifying them of their non-compliance issue. The contractor will have until the next payroll or 14 calendar days, whichever is lesser to bring the contract into compliance.

B. If at any time a contractor fails to bring the contract into compliance, HABD must withhold all future payments until the contract is in compliance.

C. The contractor shall have up to 15 business days from the most recent notice of non-compliance to meet compliance as a final cure period or justify in writing to HABD why it cannot meet compliance. HABD must render a response to the contractor within 10 business days of receipt of its letter of reason for non-compliance. If HABD deems the cause to be unacceptable, at its option, HABD can extend the cause period one time for up to 5 days to allow the contractor to identify and secure other compliance options, or

D. If the contractor fails to take any corrective action to bring the contract into compliance within seven (7) business days from the most recent notice of non-compliance, or HABD does not accept any of the contractor's corrective plans or justifications for non-compliance, HABD may terminate the contract immediately. HABD shall terminate by delivering to the Contractor a written Notice of Termination specifying the nature, extent and effective date of the termination. **All funds due to the contractor shall be held** and a financial workout of the agreement shall proceed within 24 hours of termination. The workout is to include a contract deduct equal to the total Section 3 contract violation of opportunities provided to non-Section 3 residents or business because they were not offered according to the contract and regulation award. All remaining funds can be paid out based on work satisfactorily completed per the agreement. Failure to comply with Section 3 may result in contract termination and/or prohibit bids for future contracts with HABD for at least one (1) year after the existing contract ends.

Any contractor claiming to meet Section 3 compliance by committing to hire residents, fund training itself **shall meet compliance within seven (7) calendar days of contract start** or HABD shall halt all payments to the contractor and its sub-contractors related to the agreement and the actions listed in steps A-D in this section shall apply.
ATTESTATION:

I attest that the above information is true and correct and that by signing below, the Contractor hereby agrees to comply with Section 3 requirements.

Name of Prime Contractor: _____________________________

Name of Authorized Officer: ___________________________

Title of Authorized Officer: _____________________________

__________________________ ________________________
Signature Date

NOTARY REQUIRED

STATE: ------------------------------------ COUNTY: ------------------------------------

I, the undersigned a Notary Public in and for said authority and in said State, hereby certify that, ____________________________, whose named as ____________________________ (Title) of ____________________________ (Company) is signed to the foregoing conveyance and who is known to me, acknowledged before me on this day, that, being informed of the contents of the foregoing conveyance, he/she, in his/her capability as ____________________________ (Officer Title), and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal, this the ______ day of ________, 20__. 

__________________________ My Commission Expires: ____________________________ {SEAL}
Notary Public
Attachment I

FORM HUD 5369-B

INSTRUCTIONS TO OFFERORS NON-CONSTRUCTION
Instructions to Offerors
Non-Construction

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, 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, or
      (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 offer. 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 to 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 on 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 but'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 an 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 J

HUD-5369-C

CERTIFICATION, REPRESENTATION OF

NON-CONSTRUCTIONS 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/offerees 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/offeree represents and certifies as part of its bid/offer that, except for full-time bona fide employees working solely for the bidder/offeree, the bidder/offeree:

(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 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/offeree shall make an immediate and full written disclosure to the PHA Contracting Officer.

(c) Any misrepresentation by the bidder/offeree 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 fee contingent upon or resulting from the award of this contract.

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

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

(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)

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

**3. Certificate of Independent Price Determination**

(a) The bidder/offeree certifies that—

(1) The prices in this bid/offeree have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other bidder/offeree 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/offeree, directly or indirectly, to any other bidder/offeree 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/offeree 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/offeree’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/offeree’s organization responsible for determining the prices offered in this bid or proposal, and the title of his or her position in the bidder/offeree’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:
Housing Authority of the Birmingham District
General Architectural and Engineering Services
RFQ No. 20-04

Attachment K

HUD 5370-C

GENERAL CONDITIONS FOR NON-CONSTRUCTION
General Conditions for Non-Construction Contracts
Section I – (With or without Maintenance Work)

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 $100,000 - use Section I;
2) Maintenance contracts (including nonroutine maintenance as defined at 24 CFR 968.105) greater than $2,000 but not more than $100,000 - use Section II; and
3) Maintenance contracts (including nonroutine maintenance), greater than $100,000 - use Sections I and II.

Section I - Clauses for All Non-Construction Contracts greater than $100,000

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 any purpose of set-off 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.
5. Rights in Data (Ownership and Proprietary Interest)

The HA shall have exclusive ownership of all proprietary 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 notice 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 therefrom, 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). Alaska Native 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 covered Federal action.

(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; and,
      
      (2) 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)(ii) 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 any reasonable and 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.
General Conditions for Non-Construction Contracts

Section II – (With Maintenance Work)

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 addressess.

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

1) Non-construction contracts (without maintenance) greater than $100,000 - use Section I;
2) Maintenance contracts (including nonroutine maintenance as defined at 24 CFR §68.105) greater than $2,000 but not more than $100,000 - use Section II; and
3) Maintenance contracts (including nonroutine maintenance), greater than $100,000 - use Sections I and II.

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

1. Minimum Wages
(a) All maintenance laborers and mechanics employed under this Contract in the operation of the project(s) shall be paid unconditionally and not less often than semi-monthly, and without subsequent deduction (except as otherwise provided by law or regulations), the full amount of wages due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Housing and Urban Development which is attached hereto and made a part hereof. Such laborers and mechanics shall be paid the appropriate wage rate on the wage determination for the classification of work actually performed, without regard to skill. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein; provided, that the employer’s payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination, including any additional classifications and wage rates approved by HUD under subparagraph 1(b), shall be posted at all times by the Contractor or any subcontractor the full amount of wages required under this Contract, the Contracting Officer or HUD may, after written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payment or advance until such violations have ceased.

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

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

4. Apprentices and Trainees
(a) Apprentices and trainees will be permitted to work at less than the predetermined rate for the work they perform when they are employed pursuant to and individually registered in:
(i) A bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration (ETA), Office of...
Apprenticeship Training, Employer and Labor Services (OATELS), or with a state apprenticeship agency recognized by OATELS, or if a person is employed in his/her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by OATELS or a state apprenticeship agency (where appropriate) to be eligible for probationary employment as an apprentice:

(i) A trainee program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, ETA; or

(ii) A training/trainee program that has received prior approval by HUD.

(b) Each apprentice or trainee must be paid at not less than the rate specified in the registered or approved program for the apprentice’s/trainee’s level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Apprentices and trainees shall be paid fringe benefits in accordance with the provisions of the registered or approved program. If the program does not specify fringe benefits, apprentices/trainees must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification.

(c) The allowable ratio of apprentices or trainees to journeyman on the job site in any craft classification shall not be greater than the ratio permitted to the employer as to the entire workforce under the approved program.

(d) Any worker employed at an apprentice or trainee wage rate who is not registered in an approved program, and any apprentice or trainee performing work on the job site in excess of the ratio permitted under the approved program, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed.

(e) In the event OATELS, a state apprenticeship agency recognized by OATELS or ETA, or HUD, withdraws approval of an apprenticeship or trainee program, the employer will no longer be permitted to utilize apprentices/trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

5. Disputes concerning labor standards

(a) Disputes arising out of the labor standards provisions contained in Section II of this form HUD-5370-C, other than those in Paragraph 6, shall be subject to the following procedures. Disputes within the meaning of this paragraph include disputes between the Contractor (or any of its subcontractors) and the HA, or HUD, or the employees or their representatives, concerning payment of prevailing wage rates or proper classification. The procedures in this section may be initiated upon HUD’s own motion, upon referral of the HA, or upon request of the Contractor or subcontractor(s):

(i) A Contractor and/or subcontractor or other interested party desiring reconsideration of findings of violation by the HA or HUD relating to the payment of straight-time prevailing wages or classification of work shall request such reconsideration by letter postmarked within 30 calendar days of the date of notice of findings issued by the HA or HUD. The request shall set forth those findings that are in dispute and the reasons, including any affirmative defenses, with respect to the violations. The request shall be directed to the appropriate HA or HUD official in accordance with instructions contained in the notice of findings or, if the notice does not specify to whom a request should be made, to the Regional Labor Relations Officer (HUD). The HA or HUD official shall, within 60 days (unless otherwise indicated in the notice of findings) after receipt of a timely request for reconsideration, issue a written decision on the findings of violation. The written decision on reconsideration shall contain instructions that any appeal of the decision shall be addressed to the Regional Labor Relations Officer by letter postmarked within 30 calendar days after the date of the decision. In the event that the Regional Labor Relations Officer was the deciding official on reconsideration, the appeal shall be directed to the Director, Office of Labor Relations (HUD). Any appeal must set forth the aspects of the decision that are in dispute and the reasons, including any affirmative defenses, with respect to the violations.

(ii) The Regional Labor Relations Officer shall, within 60 days (unless otherwise indicated in the decision on reconsideration) after receipt of a timely appeal, issue a written decision on the findings. A decision of the Regional Labor Relations Officer may be appealed to the Director, Office of Labor Relations, by letter postmarked within 30 days of the Regional Labor Relations Officer’s decision. Any appeal to the Director must set forth the aspects of the prior decision(s) that are in dispute and the reasons. The decision of the Director, Office of Labor Relations, shall be final.

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

6. Contract Work Hours and Safety Standards Act

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

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

(b) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the provisions set forth in paragraph 6(a), the Contractor and any
subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to the District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the provisions set forth in paragraph (a) of this clause, in the sum of $10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by provisions set forth in paragraph (a) of this clause.

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

7. **Subcontracts**

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

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

Any prevailing wage rate (including basic hourly rate and any fringe benefits), determined under state law to be prevailing, with respect to any employee in any trade or position employed under the Contract, is inapplicable to the contract and shall not be enforced against the Contractor or any subcontractor, with respect to employees engaged under the contract whenever such non-Federal prevailing wage rate, exclusive of any fringe benefits, exceeds the applicable wage rate determined by the Secretary of HUD to be prevailing in the locality with respect to such trade or position.
HUD 92010

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

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

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

2. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.

3. The contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers’ representatives of the contractor’s commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

4. The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor.

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

(6) In the event of the contractor’s noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(7) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, That in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the contractor may request the United States to enter into such litigation to protect the interests of the United States.

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

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

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

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

200.410 Definition of term "applicant".

(a) In multifamily housing transactions where controls over the mortgagor are exercised by the Commissioner either through the ownership of corporate stock or under the provisions of a regulatory agreement, the term "applicant" as used in this subpart shall mean the mortgagor.

(b) In transactions other than those specified in paragraph (a) of this section, the term "applicant" as used in this subpart shall mean the builder, dealer or contractor performing the construction, repair or rehabilitation work for the mortgagor or other borrower.

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

(a) The following equal opportunity clause shall be included in each contract and subcontract which is not exempt:

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

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

(2) The contractor will in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard race, creed, color, or national origin.

(3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided, advising the said labor union or workers' representative of the contractor's commitments under this section, and shall post copies of the notices in conspicuous places available to employees and applicants for employment.

(4) The contractor will comply with all provisions of Executive Order 10925 of March 6, 1961, as amended, and of the regulations, and relevant orders of the President's Committee on Equal Employment Opportunity created thereby.

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

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

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

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

(a) The following transactions and contracts are exempt from the regulations in this subpart:

(1) Loans, mortgages, contracts and subcontracts not exceeding $10,000.

(2) Contract and subcontracts not exceeding $100,000 for standard commercial supplies or raw material;

(3) Contracts and subcontracts under which work is to be performed outside the United States, and where no recruitment of workers within the United States is involved. To the extent that work pursuant to such contracts is done within the United States, the equal opportunity clause shall be applicable;

(4) Contracts for the sale of Government property where no appreciable amount of work involved; and

(5) Contracts and subcontracts for an indefinite quantity which are not to extend for more than one year if the purchaser shall not order the total amount of work involved; and

form HUD-92010 (3/05)
VA form 26-421
CERTIFICATION OF A DRUG-FREE WORK PLACE
Acting on behalf of the above named Applicant as its Authorized Official, I make the following certifications and agreements to the Department of Housing and Urban Development (HUD) regarding the sites listed below:

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

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

b. Establishing an on-going drug-free awareness program to inform employees ---
   (1) The dangers of drug abuse in the workplace;
   (2) The Applicant's policy of maintaining a drug-free workplace;
   (3) Any available drug counseling, rehabilitation, and employee assistance programs; and
   (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.

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

d. Notifying the employee in the statement required by paragraph a. that, as a condition of employment under the grant, the employee will ---
   (1) Abide by the terms of the statement; and
   (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

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

f. Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph d. (2), with respect to any employee who is so convicted ---
   (1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
   (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

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

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

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

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

Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties.


Name of Authorized Official

Signature

Date

form HUD-50070 (3/98)
ref. Handbooks 7417.1, 7475.13, 7485.1 & 3
Attachment N

HUD 2992
CERTIFICATION REGARDING DEBARMENT AND SUSPENSION
Certification Regarding Debarment and Suspension

Certification A: Certification Regarding Debarment, Suspension, and Other Responsibility Matters - Primary Covered Transactions

1. The prospective primary participant certifies to the best of its knowledge and belief that its principals;
   a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal debarment or agency;
   b. Have not within a three-year period preceding this proposal, been convicted of or had a civil judgment rendered against them for commission of a fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;
   c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
   d. Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.
2. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Instructions for Certification (A)

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.
2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause of default.
4. The prospective primary participant shall provide immediate written notice to the department or agency to whom this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of these regulations.
6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.
7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines this eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.
9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
10. Except for transactions authorized under paragraph (6) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause of default.
Certification B: Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Instructions for Certification (B)

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of these regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction,” without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph (5) of these instructions, if a participant in a lower covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies including suspension and/or debarment.

Applicant

Signature of Authorized Certifying Official

Date

Title
E-VERIFY
E-VERIFY
CONTRACTOR AFFIDAVIT

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

Federal Work Authorization User Identification Number: __________________________
Date of Authorization: __________________________
Name of Contractor: __________________________________________________________

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

Executed on __________________________, 20________ in ________________________ (city),
______________________________ (state)

Signature of Authorized Officer or Agent

________________________________________________________

Printed Name and Title of Authorized Officer or Agent

SUBSCRIBED AND SWORN BEFORE ME

ON THIS THE _____ DAY OF ______________________, 20________.

________________________________________________________

NOTARY PUBLIC

My Commission Expires:
CERTIFICATION OF PAYMENT TO INFLUENCE FEDERAL TRANSACTIONS
Certification of Payments to Influence Federal Transactions

The undersigned certifies, to the best of his or her knowledge and belief, that:

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

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

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

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

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

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

Name of Authorized Official

Title

Signature

Date (mm/dd/yyyy)

Previous edition is obsolete