RFP 20-07

Request for Proposal:
Group Health Insurance

Housing Authority of the
Birmingham District

The Housing Authority of the Birmingham District (HABD) is seeking proposals from firms/individuals to provide Group Health Insurance.

Issue Date: May 11, 2020
Time: 9:00 a.m. CST
Submission Deadline: June 10, 2020
Time: 2:00 p.m. CST

Contracting Officer:

Dontrelle Young-Foster, Interim President/CEO
DATE: May 11, 2020

TO: Prospective Offerors

REQUEST FOR PROPOSAL: 20-07

SEPARATE SEALED PROPOSALS FOR: Group Health Insurance

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

CLOSING DATE: June 10, 2020

TIME: 2:00 P.M. CST

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

By submission of a proposal the offeror agrees, if the offeror’s proposal is accepted, to enter into a contract with the Housing Authority of the Birmingham District (HABD), to complete all work as specified or indicated in the contract documents, for the contract price and within the contract time indicted in the RFP. The offeror further accepts the terms and conditions of the RFP.

Proposals must be prepared in accordance with the section entitled “Submittal of Proposal,” and will be evaluated by the HABD. Evaluation will be based on the criteria within this RFP.

Copies of the RFP, 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 proposals, or any proposal, 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 RFP 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.

Contracting Officer: Dontrelle Young-Foster, Interim President/CEO
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REQUEST FOR PROPOSALS

A. INTRODUCTION

The Housing Authority of the Birmingham District (HABD) hereby requests proposals from qualified firms or individuals, to provide Group Health Insurance, per the scope listed below. It is HABD’s intention to solicit proposals from offerors, evaluate their qualifications, establish a competitive range, conduct oral presentations with offerors that fall within the competitive range, verify the information presented by offerors, and to award a contract to the successful offeror under these criteria. A copy of this solicitation may be obtained at www.habd.org in the Purchasing/Procurement Section.

The Housing Authority of the Birmingham District (HABD) is a very large Public Housing Agency with approximately (4022) conventional public housing units located at twelve (12) 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 began participation under the provisions of the United States Housing Act of 1937. The HABD is governed by a (3) 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 is soliciting proposals from qualified, licensed and insured entities to provide the above noted services to HABD. 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 proposals shall be evaluated for responsiveness to the requirements of the Request for Proposal (“RFP”). Those proposals not in accordance with the RFP shall be deemed non-responsive and eliminated from further evaluation.

B. RFP INFORMATION AT A GLANCE

| HABD CONTACT PERSON | Carl M. Edwards  
| Phone: 205-521-0611  
| Fax: 205-521-7704  
| Email: cedwards@habd.net |

| HOW TO OBTAIN THE RFP DOCUMENTS | Available on May 11, 2020 at 9:00 CST  
| Housing Authority of the Birmingham District  
| 1826 Third Avenue South, Birmingham, AL 35233 |

| HOW TO OBTAIN THE RFP DOCUMENTS ON THE WEBSITE | Access: www.habd.org  
| Click on the “Procurement” Link |

| PRE-PROPOSAL CONFERENCE | No pre-proposal conference will be held for this RFP |

| DESCRIPTION OF SERVICES | Housing Authority of the Birmingham District is seeking proposals from professional, qualified agencies to provide Section 3 Resident Owned Business Training and Technical Support Services |

| PROPOSAL SUBMITTAL RETURN & DEADLINE | Wednesday, June 10, 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  
| Housing Authority of the Birmingham District  
| 1826 Third Avenue South Birmingham, AL 35233 |

Please note that all proposals will be retained by HABD for audit purposes. HABD reserves the right to reject any and/or all proposals, or to waive any informality in the proposals. Submissions received after the deadline will not be considered.
be considered. An Offeror submitting a late proposal will be so notified. All material submitted in the proposal becomes the property of HABD and will not be returned.

**Deadline for Written Questions:** All questions pertaining to this Request for Proposals must be submitted in writing no later than ten (10) days prior to submission deadline. Written questions may be submitted by email, to the Procurement Manager, Mr. Carl M. Edwards, at cedwards@habd.net or 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 Proposals.

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.

Please respect this policy and do not attempt to query HABD personnel or members of its Board of Commissioners regarding this RFP except through written questions submitted in the manner and within the time frame indicated above.

**C. HABD RESERVATION OF RIGHTS:**

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

- HABD reserves the right not to award a contract pursuant to this RFP, to award by individual service, group of services, or as a total, whichever is deemed most advantageous to HABD.

- HABD reserves the right to terminate a contract awarded pursuant to this RFP, at any time for its convenience with the issuance of a 30 days written notice to the successful proposer(s).

- HABD reserves the right to determine the days, hours and locations that the successful proposer(s) shall provide the services called for in this RFP.

- HABD reserves the right to retain all proposals submitted and not permit withdrawal for a period of 90 days subsequent to the deadline for receiving proposals without the written consent of the HABD Contracting Officer (CO).

- HABD reserves the right to negotiate the fees proposed by the proposer entity.

- HABD reserves the right to reject and not consider any proposal that does not meet the requirements of this RFP, including, but not necessarily limited to, incomplete proposals and/or proposals offering alternate or non-requested services.

- HABD shall have no obligation to compensate any proposer for any costs incurred in responding to this RFP.

- HABD shall reserve the right at any time during the RFP or contract process to prohibit any further participation by a proposer or reject any proposal submitted that does not conform to any of the requirements detailed herein.

**D. GENERAL TERMS AND CONDITIONS:**

The successful respondent will be required to sign a Professional Service Agreement ("Agreement"). The respondent must meet all insurance/licensing requirements set forth in the Agreement. All terms and conditions of the Agreement are non-negotiable. Failure to execute the Agreement and provide the required insurance
within the required time period shall be just cause for the rescission of the award. If a selected Organization refuses or fails to execute the Agreement, the HABD may award the Agreement to the next qualified organization.

PROPOSAL SCHEDULE

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<td>Release RFP</td>
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*All firms must set aside these dates for potential interviews if short-listed. Due to the short timeline to award a contract, only these dates and times will be made available for interviews.

E. SCOPE OF SERVICE

The selected firm will provide health (medical) insurance services for all HABD eligible employees. These benefits are eighty-four-point seventy-five (84.75%) percent employer paid and fifteen-point twenty-five (15.25%) percent employee paid. All HABD employees are eligible to participate. Currently the HABD has one hundred seventy-two (172) receiving health benefits; eighty-four (84) subscribers with single coverage, forty-one (45) subscribers with double coverage and fifty-nine (43) subscribers with family coverage. The selected firm will provide all summary plan descriptions, informational booklets, enrollment forms, facilitate initial employee meetings, continued group coverage and conversion and provide administrative services for a Section 125.

The health benefits to be provided are as follows:

- Physician and Medical Services;
- Inpatient/Outpatient Hospital Services
- Maternity Care
- Prescription Drug Rider;
- Vision Care/Eyewear Rider;
- Psychiatric Care;
- Alcohol/Drug Abuse (Substance Abuse Rider)
- Wellness Program
- Behavioral and Mental Health;
- Radiology;
- Other Professional Services

F. STATEMENT OF NEEDS

The Authority is seeking proposals for medical insurance coverage. The Contractor shall provide Group Health for active and retired employees of the Authority.

- Offerors should provide proposals for all products that the firm is available to administer.
- The Offerors should provide benefits similar to the current platform, but additional products are encouraged as pricing and cost control options.
- The Plans should price fully-insured options covering all eligible employees, including options for retirees under age 65.
- The Offerors should provide any possible multiple year rate guarantees for all available lines of coverage.
- The Offerors should provide all products and plans priced without any commission.
loaded into the rates.
• Please Note: Agent of Record letters will not be awarded through this process.

G. SELECTION PROCESS

The purpose of this RFP is to solicit meaningful proposals so that HABD may evaluate and solicit, from among a range, of proposals which best meets its needs and requirements. It is further desired that the RFP process will insure cost competitiveness among Offerors. HABD urges all interested Offerors to carefully review the requirements of this RFP. Written proposals containing the requested information will serve as the primary basis for final selection. All proposals will be reviewed by HABD based on the evaluation criteria contained in this RFP. HABD will select the top firm, based upon their proposal and ranking, the results of reference checks and fee proposal (not necessarily the lowest pricing). The specific evaluation criteria and respective ranks are detailed in Section D of this RFP. The HABD reserves the right to conduct negotiations with one or more Offerors if in the sole opinion of HABD, it deems that method would provide the greatest benefit to the HABD.

H. EVALUATION CRITERIA

The HABD will award a contract to the firm with the most responsive proposal, which best meets, the needs of the Authority. Proposals will be reviewed by the Authority’s Procurement Administrator for submission requirements. Proposals not meeting the submission requirements set forth in the Section titled “Detailed Proposal” will be determined as non-responsive.

Responsive proposals will be evaluated based on the following:

1. Qualification (10 points): The Offeror’s must provide information on its qualifications to provide the services offered.

2. Experience (10 points): The Offeror’s demonstrated experience and success for providing the services outlined in the RFP.

3. Capacity and Resources (15 points): The Offeror’s capacity and resources to perform the services described in the RFP. The Offeror’s accessibility to HABD.

4. Plan (20 points): Quality and feasibility of Offeror’s plans to implement the services outlined.

5. Methodology (10 points): The method used in determining the most favorable plan proposed based on the services outlined in the RFP

6. Approach and Strategy (10 points): The Offeror’s approach for the implementation and operation of the services outlined in the RFP and the portfolio of services offered. Quality and feasibility of Offeror’s plans to implement the services outlined.

7. Company Services (15 points): The willingness to provide a dedicated account management team for the HR department for elevated issues, willingness to have a representative at open enrollment meetings, willingness to have a representative meet with employees during the year at HABD office to handle questions/problems, and quarterly and annual reporting packages. Available provider network in and around Central Alabama, and outside of the state of Alabama.

8. Proposed Rates (10 points): The subscriber’s monthly rates and total annual program costs.

To promote fair and equal treatment of all proposals, each evaluation factor carries a relative weight. The weight of each evaluation criteria listed above is defined in the Evaluation Plan attached. Interviews may be conducted and best and final offers may be requested from the offerors who are rated in the competitive range. Negotiations may be conducted with offerors who submit responsive and responsible offers.
I. DETAILED PROPOSAL

SUBMISSION CONTENTS:

The proposal shall be paginated and divided into tabbed sections, as follow:

a. Cover Letter
b. Statement of Experience and Qualifications
c. Supporting Materials
d. Rates
e. MBE/WBE Participation
f. References
g. Required Forms

At a minimum, these sections should contain information as follows:

COVER LETTER: Letter of interest that summarizes the proposer's interest in the project, a brief description of qualifications, Statement of Understanding of the proposed Scope of Services and identification of a primary contact person.

STATEMENT OF EXPERIENCE AND QUALIFICATIONS: Provision of a concise description of the proposer and key project personnel. This description should highlight the history of the firm and/or partners and its organization.

Describe the experience of your company and its staff in providing the services described in the Scope of Service/Statement of Needs:

- The Offeror's ability to successfully provide Group Health Insurance Coverage
- names, qualifications and experience of personnel to be assigned to the contract;
- resumes of staff to be assigned to the contract;
- locations of company offices that will service this contract;
- names and contact person for references.
- Provide information describing your firm's structure for addressing conflicting representation requirements.

Provide information outlining experience in developing and successful implementing Group health Insurance lines of coverage:

- Plan designs (provide complete plan summaries for all options quoted)
- Rates
- Benefit Options (complete summaries and rates)
- Detailed regional network description and information regarding network beyond the state for dependents and retirees.
- Cost control, medical management, and technological advantages of the firm.
- Reporting capabilities
- Internet capabilities
- Other distinguishing characteristics regarding your firm plans and abilities to provide the services requested in the RFP.
- Provide information outlining how specific plans for providing the services outlined including the method of initiating the services and proposed approach and methodology.
- Description of any other services the Offeror may wish to propose. Examples of possible services could include the offering of other types of insurance plans and benefit plans.
- Detailed Proposed rates: Offeror(s) shall submit a complete rate structure for all proposed plans. Provision of a concise description of the proposer and key project personnel. This description should highlight the history of the firm and/or partners and its organization.
 Personnel to be assigned to the project must be described, in detail, including their role, responsibility; percentage of each person’s working time proposed to be dedicated to the project.

Resumes of key personnel and principals must be included in the submission. If the proposer plans to use outside firms or individuals to provide services for the project, information regarding the outside firms’ and individuals’ qualifications, experiences and project responsibilities must be included.

**SUPPORTING MATERIALS:** Under separate cover, provide materials that the proposer deems useful in further helping the Evaluation Panel to determine the qualifications, such as sample documents providing evidence of representative work of the firm on similar projects.

**DETAILED PROPOSED RATES:** Offeror(s) shall submit a complete rate structure for all proposed plans.

**MBE/WBE PARTICIPATION:** The proposal should include percentage participation of MBE/WBE of the firms that comprise the proposer’s team. HABD has established an administrative goal of 20% utilization of disadvantaged and historically underutilized businesses for performance of the work under this procurement.

**REFERENCES:** A list of at least three (3) references where the Offeror has provided the services described in the RFP. Include the organization, contact name, title, location, telephone number, and email address. Provide the information on past and current contracts.

**REQUIRED FORMS:**

Proposals must include all required completed forms and certifications, as follows:

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<tr>
<th>Attachment</th>
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<tbody>
<tr>
<td>A</td>
<td>Fee Proposal Form (submission required)</td>
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<td>B</td>
<td>Profile of Firm Form (submission required)</td>
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<tr>
<td>C</td>
<td>Non-Collusive Affidavit (submission required)</td>
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<tr>
<td>D</td>
<td>HABD Certification of Non-Discrimination (submission required)</td>
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<td>Form 2992 Certification Regarding Debarment and Suspension (submission required)</td>
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<td>O</td>
<td>Sample Form of Contract</td>
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<td>P</td>
<td>HUD 50071 Certification of Payment to Influence Federal Transactions (submission required)</td>
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**ACKNOWLEDGEMENT OF ADDENDA:** The proposer shall acknowledge in their proposal receipt of any Addenda to this RFP by signing the document on the acknowledgement line of the amendment. Proposer’s failure to acknowledge an Addendum may result in rejection of the proposal. This may be done in the cover letter.

**RESTRICTION ON DISCLOSURE AND USE OF DATE:** A proposer, including proprietary or confidential information in its proposal, shall state whether this information is to be disclosed to the public or used for any purpose other than proposal evaluation. In addition to the requirements above, the proposer shall conspicuously mark each sheet containing proprietary or confidential information the proposer wishes not to be disclosed with a notation to that effect.

**COMPLETE AND ACCURATE SUBMISSION:** A proposer’s failure to provide accurate information in response to this RFP may disqualify the proposer from further participation in the RFP selection process.
A proposal may be corrected, modified or withdrawn, provided that the correction, modification or request for withdrawal is made by the proposer, in writing, and is received at the place and prior to the date and time designated in the RFP for final receipt of proposals. After such date and time, the proposer may not change any provision of its proposal in a manner prejudicial to the interest of the HABD and/or fair competition.

**PROPOSAL RETENTION:** All proposals are the property of and shall be retained by HABD, and therefore, will not be returned to the proposer.

**KEY PERSONNEL:** The key personnel specified in the proposal by the selected firm are considered to be essential to the work performed under the contract. Prior to reassigning any of the key personnel for this project for any reason(s), the selected firm shall notify HABD, in writing, at least thirty (30) calendar days in advance, and shall submit justification (including proposed substitutions) in sufficient detail to permit evaluation of the impact on the contract. The firm shall not change the names of these personnel or hours to be devoted, before or after contract award, without written permission from HABD.

**ORAL PRESENTATION:** Offerors who submit a proposal in response to this RFP may be required to give an oral presentation of their proposal to HABD. This provides an opportunity for the offeror to clarify or elaborate on the proposal. This is a factor finding and explanation session only and does not these presentations. Oral presentation is an option of HABD and may or may not be conducted.

If underwriters are not available to meet with the Evaluation Committee then one representative of the insurance company will be requested to be in attendance when and if a firm is asked to present the firm’s program(s). The Authority is requesting underwriters to attend as the Evaluation Committee may want to ask questions regarding the rating formulas and benefit changes.

**J. SUBMITTAL OF PROPOSAL**

Offerors must submit one (1) electronic (1) signed original and five (5) copies of their proposals to HABD as follows:

Mr. Carl M. Edwards, Director of Procurement  
Housing Authority of the Birmingham District  
1826 Third Avenue, South  
Birmingham, AL 35233

In order to be considered, proposals must arrive no later than **2:00 p.m. CST on June 10, 2020**, by mail or personal delivery. The proposal must be sealed in a box or envelope, designated with the title of this RFP and the Offeror’s name, address and telephone number shown on the box or envelope. All material must be submitted in an 8 ½ X 11 format. **The above stated deadline is firm as to date and hour.** An Offeror may select any mode of delivery and the risk of non-delivery shall remain with the Offeror. The HABD will treat as ineligible for consideration and will return unopened, any submission that is received after the deadline. Upon receipt of each proposal, the HABD will date and stamp it, to evidence timely and late receipt, and upon request, provide the Offeror with an acknowledgment of receipt. **Faxed submissions will not be accepted.** All timely submissions become the property of HABD and will not be returned to the Offeror. Proposals will be held in confidence and not released in any manner until after contract award.

**K. RFP INTERPRETATIONS**

The intent of this RFP is to establish the general specifications for the professional services needed and to provide prospective Offerors with sufficient information to enable them to provide an acceptable response to this RFP. Every effort has been made to outline requirements and to provide information in a format that is clear and concise. Nevertheless, the HABD recognizes that questions may arise or additional information may be needed in order for an Offeror to respond to this RFP. Questions and inquiries regarding this RFP must be submitted in writing and should refer to the specific paragraph in question. All inquiries must be received no later than **2:00 p.m. CST** on
May 30, 2020, and should be submitted to HABD’s Director of Procurement, Carl M. Edwards, at the following address.

Housing Authority of the Birmingham District  
1826 Third Avenue, South  
Birmingham, AL 35233

Answers will be provided as written addenda to this RFP, which will be on file and available for inspection at HABD Offices, not later than five (5) days prior to the proposal submission date. HABD will endeavor to provide copies of the addenda to all potential Offerors to whom this RFP has been mailed, but it will be the responsibility of each Offeror as to the existence and content of addenda as the same shall become part of this RFP and all Offerors will be bound thereby, whether or not the addenda are actually received by the Offeror.

Questions may be submitted by facsimile to (205) 521-7704 or email: cedwards@habd.net

L. HABD OPTIONS

The HABD reserves the right to cancel this RFP or to reject and hold or in part, any and all proposals received in response to this RFP upon its determination that such cancellation or rejection is in the best interest of the HABD. The HABD further reserves the right to waive any informalities or the failure of any Offeror to comply therewith, if it is in the public interest to do so. The HABD will reject the proposal of any Offeror who is debarred by the U.S. Department of Housing and Urban Development (HUD) from providing services to public housing agencies and reserves the right to reject the proposal of any Offeror who has previously failed to perform any contract properly for the HABD. The determination of the criteria and process whereby proposals are evaluated and the decision as to who shall receive a contract award, or whether or not an award shall be made as a result of this RFP, shall be at the sole and absolute discretion of the HABD.

M. CONTRACT, FORMS AND ISSUES

This RFP may lead to a contract, the terms of which will be negotiated, between the HABD and the successful Offeror, the length of the contract will be approximately two (2) years. The HABD shall have the option to renew this contract upon the same terms and conditions for three (3) successive period of twelve (12) months. The HABD shall issue written notice of its exercise of this option to renew at least thirty (30) days prior to the expiration date of this contract; this option is based on funding availability. Submission of a fee proposal is required for respondents with their proposal. Work under the contract shall commence immediately upon execution of a contract or in accordance with the agree-upon schedule that is outlined in the contract. No contractual rights shall arise out of the process of negotiation until such time as a contract has been signed by the HABD and the selected Offeror.

N. EQUAL OPPORTUNITY EMPLOYMENT

Each firm or individual shall certify compliance with all applicable equal opportunity requirements governing contracts of the type. Proposal must include signed HABD Certification of Non-Discrimination.

O. 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.
P. SECTION 3

Prospective responders are advised that the project is a “Section 3” covered project and described in CFR 135, which implements Section 3 of the Housing and Urban Development Act of 1968, as amended (‘Section T). Without limitation of any other applicable affirmative action requirements, the successful bidder and any other subcontractor’s, such as, but not limited to, delivery, assembly and provision of raw materials, will also have an obligation to cause the work to be performed, to the greatest extent feasible, by business concerns located in or owned in substantial part by persons residing in the area of the project (i.e., City of Birmingham), as those terms are defined in the documents. The employment of individuals residing in the communities or neighborhoods in which the project is located is considered as integral part of the Section 3 requirement. The forms and further information on Section 3 are available on HABD’s website.

Q. CONFLICT OF INTEREST

No member, officer, employee of HABD, or member of the City of Birmingham Council shall, during his/her tenure for one (1) year thereafter, have any interest, direct or indirect, in this contract or the proceeds thereof. HABD officers, employees or agents shall not solicit or accept gratuities, favors, or anything of monetary value from contractors, or parties to subcontractors, and shall not use confidential information for actual or anticipated personal gain.

R. GENERAL

No members, officers, or employees of the HABD, no member of the governing body of the locality in which the project is situated, no member of the governing body of locality in which the project is activated, and not other public official of such locality or localities who exercise any functions or responsibilities with respect to the project, shall, during their tenure, or for one (1) year thereafter, have any interest, direct or indirect, in this contract or the proceeds thereof.

Persons who require special accommodations should immediately contact the HABD Procurement Office at (205) 521-0611.

The Housing Authority of the Birmingham District reserves the right to accept or reject any or all proposals, or any part of any proposal, and to waive any informalities or irregularities.

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.

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.
EVALUATION PLAN

The following points will be assigned to each evaluation criteria set forth in the Request for Group Health Insurance. Each committee representative shall rate each proposal received, according to the evaluation criteria and point system listed below:

<table>
<thead>
<tr>
<th>Name: Group Health Insurance</th>
<th>RFP No. 20-07</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Scoring Evaluation Plan</strong></td>
<td></td>
</tr>
<tr>
<td><strong>RFP Service or Product Description:</strong> To provide Health Insurance</td>
<td></td>
</tr>
<tr>
<td><strong>Evaluation Criteria</strong></td>
<td><strong>Maximum Assigned Points</strong></td>
</tr>
<tr>
<td><strong>Qualification, Experience, Capacity and Resources</strong></td>
<td></td>
</tr>
<tr>
<td>Qualifications: The Offeror’s must provide information on its qualifications to provide the services offered.</td>
<td>0-10 Points</td>
</tr>
<tr>
<td>Experience: The Offeror’s demonstrated experience and success for providing the services outlined in the RFP.</td>
<td>0-10 Points</td>
</tr>
<tr>
<td>Capacity and Resources: The Offeror’s capacity and resources to perform the services described in the RFP. The Offeror’s accessibility to HABD.</td>
<td>0-15 Points</td>
</tr>
<tr>
<td><strong>Total Possible Points</strong></td>
<td>35 Points</td>
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<tr>
<td><strong>Plan, Methodology, Approach and Strategy</strong></td>
<td></td>
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<tr>
<td>Plan: Quality and feasibility of Offeror’s plans to implement the services outlined.</td>
<td>0-20 Points</td>
</tr>
<tr>
<td>Methodology: The method used in determining the most favorable plan proposed based on the services outlined in the RFP.</td>
<td>0-10 Points</td>
</tr>
<tr>
<td>Approach and Strategy: The Offeror’s approach for the implementation and operation of the services outlined in the RFP and the portfolio of services offered. Quality and feasibility of Offeror’s plans to implement the services outlined.</td>
<td>0-10 Points</td>
</tr>
<tr>
<td><strong>Total Possible Points</strong></td>
<td>40 Points</td>
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<tr>
<td><strong>Company Services</strong></td>
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<td>Company Services: The willingness to provide a dedicated account management team for the HR department for elevated issues, willingness to have a representative at open enrollment meetings, willingness to have a representative meet with employees during the year at HABD office to handle questions/problems. Ability to provide both quarterly and annual reporting packages. Available provider network in and around Central Alabama, and outside of the state of Alabama.</td>
<td>0-15 Points</td>
</tr>
<tr>
<td><strong>Total Possible Points</strong></td>
<td>15 Points</td>
</tr>
<tr>
<td><strong>Proposed Rates, Benefits, Fees and Expenses</strong></td>
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<tr>
<td>Proposed Rates: The subscriber’s monthly rates and total annual program costs.</td>
<td>0-10 Points</td>
</tr>
<tr>
<td><strong>Total Possible Points</strong></td>
<td>10 Points</td>
</tr>
</tbody>
</table>

**Total Available Points** 100 Points
Attachment A

COST PROPOSAL FORM

RFP 20-07
Group Health Insurance
(Return with Proposal-page 1 of 2)

shall provide the services as detailed in the attached proposal for Group Health Insurance, subject to the term, scope of services and general conditions set forth in the Request for Proposal, for a rate of:

<table>
<thead>
<tr>
<th>Coverage</th>
<th>Rate</th>
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<tbody>
<tr>
<td>Employee</td>
<td>$</td>
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<tr>
<td>Two-Person (employee plus one dependent)</td>
<td>$</td>
</tr>
<tr>
<td>Family (employee plus two or more dependents)</td>
<td>$</td>
</tr>
</tbody>
</table>

(Note): Offeror shall break down all elements of cost in such a manner that HABD will have an opportunity to fully understand the make-up of the proposed cost.

Proposer’s Initials:

1. Firm has read and understand the documents, and firm’s proposal made in accordance therewith;

2. Firm has reviewed the RFP for Group Health Insurance prepared by HABD and understands that it will apply to this project and his/her proposal is made in accordance therewith;

4. Firm has included in the RFP the cost of all labor, material and items required for the proper execution and completion of the work;

5. Firm’s proposal is based upon the materials, system and equipment required by the RFP documents without exception;

6. Firm is licensed and qualified under the laws of the State of Alabama to perform the quantity and type of work shown on the RFP and Contact documents if applicable;

7. Firm has reviewed the HABD policy on Section 3 compliance provided. All Proposer’s will be required to meet the HABD minimum required for Section 3, non-compliance is not an option.
Proposer acknowledges receipt of the following addenda:

No. ___, dated _______   No. ___, dated _______
No. ___, dated _______   No. ___, dated _______

The Undersigned Proposer Agrees to the following:

1. The proposal will not be modified, withdrawn or canceled during the period following the time and date designated for the receipt of proposal until the Contract Award is announced.

2. Proposer will be required to hold given prices for a period up to ninety (90) days until the owner issues a Notice to Proceed.

3. Proposer understands that the HABD reserves the right to reject any or all proposals and waive any informalities or irregularities in the bid or in the bidding.

Contractor __________________________________________

Business Address ______________________________________
City __________________________ State__________________ Zip________
Proposer’s Signature __________________________ Date ________
Title ______________________________________________

If firm is a corporation, set forth the legal name of the corporation together with the signature of the officer or officers authorized to sign contracts on behalf of the corporation.

If firm is a partnership, set forth the name of the firm together with the signature of the partner or partner authorized to sign contracts on behalf of the partnership.
Attachment B

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

<table>
<thead>
<tr>
<th>NAME</th>
<th>TITLE</th>
<th>% OF OWNERSHIP</th>
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</table>

(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 __________________
Attachment C

NON-COLLUSIVE AFFIDAVIT

(Prime Proposer)

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 proposal or bid, that such proposal or bid is genuine and not collusive or sham; that said bidder has not colluded, conspired, connived or agreed, directly or indirectly, with any bidder or person, to 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 proposal 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 _____________, 201_.

My commission expires ____________, 201_.
Attachment D

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: ________________________________
Attachment E

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
Attachment F

SECTION 3 BUSINESS CONCERN SELF-CERTIFICATION

FORM
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.

Signature:                                  Date Signed:

Name:                                      Title:

Company Name

Address

Telephone Number

Type of Business: (Check One):  ☐Corporation  ☐Partnership  ☐Sole Proprietorship  ☐Other
Attachment G

SECTION 3 ASSURANCE OF COMPLIANCE AND ACTION PLAN
CONTRACTOR SECTION 3 ASSURANCE OF COMPLIANCE AND ACTION PLAN (p. 1 of 7)

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.
**CONTRACTOR SECTION 3 ASSURANCE OF COMPLIANCE AND ACTION PLAN (p.2 of 7)**

**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>
</tr>
</thead>
<tbody>
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</table>

*Use an additional sheet if required*

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.
CONTRACTOR SECTION 3 ASSURANCE OF COMPLIANCE AND ACTION PLAN (p. 7 of 7)

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 H

HUD-5369-B
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, then all terms and conditions which are not modified remain unchanged.
(b) Offerors shall acknowledge receipt of any amendments to this solicitation by
   (1) signing and returning the amendment;
   (2) identifying the amendment number and date in the space provided for this purpose on the form for submitting an offer;
   (3) letter or telegram, or
   (4) facsimile, if facsimile offers are authorized in the solicitation.
   The HAHUD must receive the acknowledgment by the time specified for receipt of offers.

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

5. Responsibility of Prospective Contractor
(a) The HA shall award a contract only to a responsible prospective contractor who is able to perform successfully under the terms and conditions of the proposed contract. To be determined responsible, a prospective contractor must:
   (1) Have adequate financial resources to perform the contract, or
   (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 HAHUD.
(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 HAHUD that the late receipt was due solely to mishandling by the HAHUD after receipt at the HA;
   (3) Was sent by U.S. Postal Service Express Mail Next Day Service - Post Office to Addressee, not later than 5:00 p.m. at the place of mailing two working days prior to the date specified for receipt of proposals. The term "working days" excludes weekends and U.S. Federal holidays; or
   (4) Is the only offer received.
(b) Any modification of an offer, except a modification resulting from the HA's request for "best and final" offer (if this solicitation is a request for proposals), is subject to the same conditions as in subparagraphs (a)(1), (2), and (3) of this provision.
(c) A modification resulting from the HA's request for "best and final" offer received after the time and date specified in the request will not be considered unless received before award and the late receipt is due solely to mishandling by the HA after receipt at the HA.
(d) The only acceptable evidence to establish the date of mailing of a late offer, modification, or withdrawal sent either by registered or certified mail is the U.S. or Canadian Postal Service postmark on the envelope or wrapper and on the original receipt from the U.S. or Canadian Postal Service. Both postmarks must show a legible date or the offer, modification, or withdrawal shall be processed as if mailed late. "Postmark" means a printed, stamped, or otherwise placed impression (exclusive of a postage meter machine impression) that is readily identifiable without further action as having been supplied and affixed by employees of the U.S. or Canadian Postal Service on the date of mailing. Therefore, offerors should request the postal clerk to place a hand cancellation bull's-eye postmark on both the receipt and the envelope or wrapper.
(e) The only acceptable evidence to establish the time of receipt at the HA is the time/date stamp of HA on the offer wrapper or other documentary evidence of receipt maintained by the HA.
(f) The only acceptable evidence to establish the date of mailing of a late offer, modification, or withdrawal sent by Express Mail Next Day Service-Post Office to Addressee is the date entered by the post office receiving clerk on the “Express Mail Next Day Service-Post Office to Addressee” label and the postmark on both the envelope or wrapper and on the original receipt from the U.S. Postal Service. “Postmark” has the same meaning as defined in paragraph (c) of this provision, excluding postmarks of the Canadian Postal Service. Therefore, offerors should request the postal clerk to place a legible hand cancellation bull’s eye postmark on both the receipt and the envelope or wrapper.

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

(h) If this solicitation is a request for proposals, proposals may be withdrawn by written notice, or if authorized by this solicitation, by telegram (including telexgram) 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 acknowledgement 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:]

Previous edition is obsolete

Page 2 of 2
Attachment I

HUD-5369-C
CERTIFICATIONS AND REPRESENTATIONS OF OFFERORS
NON-CONSTRUCTION CONTRACT
Certifications and Representations of Offerors
Non-Construction Contract

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

This form includes clauses required by OMB's common rule on bidding/offer/ing 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 (HAAs). The form is used by bidders/offerors to certify to the HA’s Contracting Officer for contract compliance. If the form were not used, HAAs 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 itself entail confidentiality.

1. Contingent Fee Representation and Agreement

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

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

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

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

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

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

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

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

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

(c) [ ] is, [ ] is not a minority enterprise which, pursuant to Executive Order 11625, is defined as a business which is at least 51 percent owned by one or more minority group members or, in the case of a publicly owned business, at least 51 percent of its voting stock is owned by one or more minority group members, and whose management and daily operations are controlled by one or more such individuals.

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

Check the block applicable to you

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

3. Certificate of Independent Price Determination

(a) The bidder/offeror certifies that—

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

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

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

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

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

2) (i) has been authorized, in writing, to act as agent for the following principals in certifying that those principals have not participated, and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above (insert full name of person(s) in the bidder/offeror’s organization responsible for determining the prices offered in this bid or proposal, and the title of his or her position in the bidder/offeror’s organization);

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

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

4. Organizational Conflicts of Interest Certification

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

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

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

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

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

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

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

5. Authorized Negotiators (RFPs only)

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

6. Conflict of Interest

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

7. Offeror's Signature

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

________________________
Signature & Date:

________________________
Typed or Printed Name:

________________________
Title:
Attachment J

HUD 5370-C
GENERAL CONDITIONS FOR NON-CONSTRUCTION CONTRACTS
General Conditions for Non-Construction Contracts
Section I – (With or without Maintenance Work)

Applicability. This form HUD-6370-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; and (iii) withhold any payments to the Contractor, for the purpose of offset 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.
(b) The Contractor agrees to include in first-tier subcontracts under this contract a clause substantially the same as paragraph (a) above. "Subcontract," as used in this clause, excludes purchase orders not exceeding $10,000.

(c) The periods of access and examination in paragraphs (a) and (b) above for records relating to:
(i) appeals under the clause titled Disputes;
(ii) litigation or settlement of claims arising from the performance of this contract; or,
(iii) costs and expenses of this contract to which the HA, HUD, or Comptroller General or any of their duly authorized representatives has taken exception shall continue until disposition of such appeals, litigation, claims, or exceptions.

5. Rights in Data (Ownership and Proprietary Interest)

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

6. Energy Efficiency

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

7. Disputes

(a) All disputes arising under or relating to this contract, except for disputes arising under clauses contained in Section III, Labor Standards Provisions, including any claims for damages for the alleged breach the of which are not disposed of by agreement, shall be resolved under this clause.

(b) All claims by the Contractor shall be made in writing and submitted to the HA. A claim by the HA against the Contractor shall be subject to a written decision by the HA.

(c) The HA shall, with reasonable promptness, but in no event in no more than 60 days, render a decision concerning any claim hereunder. Unless the Contractor, within 30 days after receipt of the HA's decision, shall notify the HA in writing that it takes exception to such decision, the decision shall be final and conclusive.

(d) Provided the Contractor has (i) given the notice within the time stated in paragraph (c) above, and (ii) excepted its claim relating to such decision from the final release, and (iii) brought suit against the HA not later than one year after receipt of final payment, or if final payment has not been made, not later than one year after the Contractor has had a reasonable time to respond to a written request by the HA that it submit a final voucher and release, whichever is earlier, then the HA's decision shall not be final or conclusive, but the dispute shall be determined on the merits by a court of competent jurisdiction.

(e) The Contractor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under the contract, and comply with any decision of the HA.

8. Contract Termination; Debarment

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

9. Assignment of Contract

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

10. Certificate and Release

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

11. Organizational Conflicts of Interest

(a) The Contractor warrants that to the best of its knowledge and belief and except as otherwise disclosed, it does not have any organizational conflict of interest which is defined as a situation in which the nature of work under this contract and a contractor's organizational, financial, contractual or other interests are such that:
(i) Award of the contract may result in an unfair competitive advantage; or
(ii) The Contractor's objectivity in performing the contract work may be impaired.

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

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

(d) The terms of this clause shall be included in all subcontracts and consulting agreements wherein the work to be performed is similar to the service provided by the prime Contractor. The Contractor shall include in such subcontracts and consulting agreements any necessary provisions to eliminate or neutralize conflicts of interest.

12. Inspection and Acceptance

(a) The HA has the right to review, require correction, if necessary, and accept the work products produced by the Contractor. Such review(s) shall be carried out within 30 days so as to not impede the work of the Contractor. Any
product of work shall be deemed accepted as submitted if the HA does not issue written comments and/or required corrections within 30 days from the date of receipt of such product from the Contractor. 

(b) The Contractor shall make any required corrections promptly at no additional charge and return a revised copy of the product to the HA within 7 days of notification or a later date if extended by the HA. 

(c) Failure by the Contractor to proceed with reasonable promptness to make necessary corrections shall be a default. If the Contractor’s submission of corrected work remains unacceptable, the HA may terminate this contract (or the task order involved) or reduce the contract price or cost to reflect the reduced value of services received.

13. Interest of Members of Congress

No member of or delegate to the Congress of the United States of America or Resident Commissioner shall be admitted to any share or part of this contract or to any benefit to arise 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). Alaskan Natives are included under the definitions of Indian tribes in that Act.

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

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

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

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

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

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

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

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

(b) Prohibitions

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

(ii) The prohibition does not apply as follows:
(1) Agency and legislative liaison by Own Employees.

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

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

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

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

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

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

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

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

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

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

(ii) 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.

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

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

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

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

(iii) Selling activities by independent sales representatives.

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

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

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

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

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

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

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

(a) The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin.

(b) The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to: (1) employment; (2) upgrading; (3) demotion; (4) transfer; (5) recruitment or recruitment advertising; (6) layoff or termination; (7) rates of pay or other forms of compensation; and (8) selection for training, including apprenticeship.

(c) The Contractor shall post in conspicuous places available to employees and applicants for employment the notices to be provided by the Contracting Officer that explain this clause.

(d) The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(e) The Contractor shall send, to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, the notice to be provided by the Contracting Officer advising the labor union or workers' representative of the Contractor's commitments under this clause, and post copies of the notice in conspicuous places available to employees and applicants for employment.

(f) The Contractor shall comply with Executive Order 11246, as amended, and the rules, regulations, and orders of the Secretary of Labor.

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

(h) In the event of a determination that the Contractor is not in compliance with this clause or any rule, regulation, or order of the Secretary of Labor, this contract may be canceled, terminated, or suspended in whole or in part, and the Contractor may be declared ineligible for further Government contracts, or federally assisted construction contracts under the procedures authorized in Executive Order 11246, as amended. In addition, sanctions may be imposed and remedies invoked against the Contractor as provided in Executive Order 11246, as amended, the rules, regulations, and orders of the Secretary of Labor, or as otherwise provided by law.

(i) The Contractor shall include the terms and conditions of this clause in every subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor issued under Executive Order 11246, as amended, so that these terms and conditions will be binding upon each subcontractor or vendor. The Contractor shall take such action with respect to any subcontractor or purchase order as the Secretary of Housing and Urban Development or the Secretary of Labor may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided that if the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

17. Dissemination or Disclosure of Information

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

18. Contractor's Status

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

19. Other Contractors

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

20. Liens

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

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

(a) The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3 shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

(b) The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 135 regulations.

(c) The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of
apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

(d) The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.

(e) The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR Part 135.

(f) Noncompliance with HUD's regulations in 24 CFR Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

22. Procurement of Recovered Materials

(a) In accordance with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, the Contractor shall procure items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition. The Contractor shall procure items designated in the EPA guidelines that contain the highest percentage of recovered materials practicable unless the Contractor determines that such items: (1) are not reasonably available in a reasonable period of time; (2) fail to meet reasonable performance standards, which shall be determined on the basis of the guidelines of the National Institute of Standards and Technology, if applicable to the item; or (3) are only available at an unreasonable price.

(b) Paragraph (a) of this clause shall apply to items purchased under this contract where: (1) the Contractor purchases in excess of $10,000 of the item under this contract; or (2) during the preceding Federal fiscal year, the Contractor: (i) purchased any amount of the items for use under a contract that was funded with Federal appropriations and was with a Federal agency or a State agency or agency of a political subdivision of a State; and (ii) purchased a total of in excess of $10,000 of the item both under and outside that contract.
General Conditions for Non-Construction Contracts
Section II – (With Maintenance Work)

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

1) Non-construction contracts (without maintenance) greater than $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 II – Labor Standard Provisions for all Maintenance Contracts greater than $2,000

1. Minimum Wages
   (a) All maintenance laborers and mechanics employed under this Contract in the operation of the project(s) shall be paid unconditionally and not less often than semi-monthly, and without subsequent deduction (except as otherwise provided by law or regulations), the full amount of wages due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Housing and Urban Development which is attached hereto and made a part hereof. Such laborers and mechanics shall be paid the appropriate wage rate on the wage determination for the classification of work actually performed, without regard to skill. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein; provided, that the employer’s payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination, including any additional classifications and wage rates approved by HUD under subparagraph 1(b), shall be posted at all times by the Contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

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

   (1) The work to be performed by the classification required is not performed by a classification in the wage determination;
   (2) The classification is utilized in the area by the industry; and
   (3) The proposed wage rate bears a reasonable relationship to the wage rates contained in the wage determination.

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

3. Records
   (a) The Contractor and each subcontractor shall make and maintain for three (3) years from the completion of the work records containing the following for each laborer and mechanic:

   (i) Name, address and Social Security Number;
   (ii) Correct work classification or classifications;
   (iii) Hourly rate or rates of monetary wages paid;
   (iv) Rate or rates of any fringe benefits provided;
   (v) Number of daily and weekly hours worked;
   (vi) Gross wages earned;
   (vii) Any deductions made; and
   (viii) Actual wages paid.

   (b) The Contractor and each subcontractor shall make the records required under paragraph 3(a) available for inspection, copying, or transcription by authorized representatives of HUD or the HA and shall permit such representatives to interview employees during working hours on the job. If the Contractor or any subcontractor fails to make the required records available, HUD or its designee may, after written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payment, advance or guarantee of funds.

4. Apprentices and Trainees
   (a) Apprentices and trainees will be permitted to work at less than the predetermined rate for the work they perform when they are employed pursuant to and individually registered in:

   (i) A bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration (ETA), Office of
Apprenticeship Training, Employer and Labor Services (OATELS), or with a state apprenticeship agency recognized by OATELS, or if a person is employed in his/her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by OATELS or a state apprenticeship agency (where appropriate) to be eligible for probationary employment as an apprentice;

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

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

(b) Each apprentice or trainee must be paid at not less than the rate specified in the registered or approved program for the apprentice's/trainee's level of progress, expressed as a percentage of the journeymen 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 journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the employer as to the entire work force under the approved program.

(d) Any worker employed as 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.
Attachment K

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

Excerpt from HUD Regulations

200.410 Definition of term “applicant”.

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

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

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

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

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

1. The contractor will not discriminate against any employee or applicant for employment because of race, creed, color, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, creed, color, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other terms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, accessible 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 as 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 vender. 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 vender as a result of such direction by HUD, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

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

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

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

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

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

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

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

5. Contracts and subcontracts for an indefinite quantity which are not to extend for more than one year if the purchaser determines that the amounts to be ordered under any such contract or subcontract are not reasonably expected to exceed $100,000 in the case of contracts or subcontracts for standard commercial supplies and raw materials, or $10,000 in the case of all other contracts and subcontracts.
Attachment L

HUD 50070

CERTIFICATION OF A DRUG-FREE WORK PLACE
Certification for a Drug-Free Workplace

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

I hereby certify that all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate. Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1910, 1012; 31 U.S.C. 3729, 3802)

Name of Authorized Official

Title

Signature

Date

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

HUD 2992
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 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) without 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 place 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, 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 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.

[Table for Applicant and Date]

Signature of Authorized Certifying Official | Title

Page 2 of 2
Attachment N

E-VERIFY FORM
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 services in satisfaction of such contract only with subcontractors who present an affidavit to the contractor with the information required by E-Verify. Contractor hereby 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:
Attachment O

SAMPLE FORM OF CONTRACT
AGREEMENT FOR SERVICES

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 service 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 __________________ ($) 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 __________/_______
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 - RECOUSE
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 /
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, 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.

Parties Initial/Date: HABD_______/_______  Contractor_______/_______  Page 5 of 7
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: ____________________________

HOUSING AUTHORITY OF THE BIRMINGHAM DISTRICT

By: ____________________________

Date: ____________

APPROVED AS TO FORM AND CONTENT:

Compliance Counsel ____________________ Date: ____________

Parties Initial/Date: HABD __________/ ________ Contractor ________/ ________
Attachment P

HUD 50071 CERTIFICATION OF PAYMENT TO INFLUENCE FEDERAL TRANSACTIONS
Certification of Payments to Influence Federal Transactions

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

Applicant Name

Program/Activity Receiving Federal Grant Funding

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.

Name of Authorized Official

Title

Signature

Date (mm/dd/yyyy)

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)

Previous edition is obsolete

form HUD 50071 (01/14)
ref. Handbooks 7417.1, 7475.13, 7485.1, & 7485.3