



# Market Analysis Services

## *RFP 8.18.2023: Market Analysis Services*

Publication of Request: August 18, 2023, at 11:00 a.m.

Submission of Response Deadline: September 18, 2023, at 11:00 a.m.

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## OVERVIEW

The Housing Authority of the City of Fort Wayne, Indiana and its affiliated entities d/b/a Fort Wayne Housing Authority (“FWHA”) seeks proposals for Market Analysis services for its Choice Neighborhoods Planning Grant – Tall Oaks Apartments Transformation Strategy. For additional information please see Attachment A – Company Profile.

### RFP Information at a Glance

Contact Person	Dana Christian (260) 267-9300 dchristian@fwha.org
How to obtain the RFP Documents on the applicable internet site	<a href="http://www.fwha.org">www.fwha.org</a> Business Opportunities
Pre-proposal Conference	N/A
How to fully respond to this RFP by submitting a Proposal Submittal	As directed within Section 6.0 of the RFP document
Submission of Proposal Deadline	<b>Monday, September 18, 2023</b> The proposal must be received <b>electronically only</b> by FWHA no later than 11:00 am eastern standard time on the due date at the following email address: <a href="mailto:dchristian@fwha.org">dchristian@fwha.org</a>
Anticipated Approval by HA Board of Commissioners	Tuesday, October 10, 2023 Fort Wayne Housing Authority 7315 Hanna Street Fort Wayne, IN 46816

## **1. FORT WAYNE HOUSING AUTHORITY (FWHA) CONTACT:**

All questions or request for documents pertaining to this solicitation shall be addressed to Dana Christian, Development Manager, telephone (260) 267-9300, fax (260) 267-9306 email at [dchristian@fwha.org](mailto:dchristian@fwha.org) .

## **2. APPLICABILITY:**

By submitting a bid, the bidder is agreeing to abide by all terms and conditions listed herein, including those terms and conditions within HUD Handbook 7460.8 REV 2, Procurement Handbook for Public Housing Agencies, dated 2/2007 and HUD Table 5.1, Mandatory Contract Clauses for Small Purchases Other Than Construction and if attached: HUD 5370EZ, Davis Bacon or HUD Wage Decision.

## **3. FWHA's RESERVATION OF RIGHTS:**

FWHA reserves the right to:

- a. FWHA reserves the right to reject any or all proposals, to waive any informality in the RFP process, or to terminate the RFP process at any time, if deemed by the FWHA to be in its best interests.
- b. FWHA reserves the right not to award a contract pursuant to this RFP.
- c. FWHA reserves the right to terminate a contract awarded pursuant to this RFP, at any time for its convenience upon fourteen (14) days written notice to the successful proposer(s).
- d. FWHA reserves the right to determine the days, hours, and locations that the successful proposer(s) shall provide the services called for in this RFP.
- e. FWHA reserves the right to retain all proposals submitted and not permit withdrawal for a period of sixty (60) days subsequent to the deadline for receiving proposals without the written consent of the FWHA contract Administrator (CA).
- f. FWHA reserves the right to negotiate the fees proposed by the proposer entity, if such negotiations are not, in the opinion of FWHA's CA, successfully concluded within a reasonable timeframe as determined by FWHA. FWHA shall retain the right to end such negotiations.
- g. FWHA reserves the right to reject and not consider any proposal that does not meet the requirements for this RFP, including but not necessarily limited to incomplete proposals and/or proposals offering alternate or non-requested services.
- h. FWHA shall have no obligation to compensate any proposer for any costs incurred in responding to this RFP.
- i. FWHA shall reserve the right to at any time during the RFP or contract process to prohibit any further participation by a proposer or reject any proposal submitted that does not conform to any of the requirements detailed herein. Each prospective proposer further agrees that he/she will inform FWHA's CA in writing within five (5) days of the discovery of any item that is issued thereafter by FWHA that he/she feels needs to be addressed. Failure to abide by this timeframe shall relieve FWHA, but not the prospective proposer, of any responsibility pertaining to such issue.
- j. FWHA reserves the right, prior to award, to revise, change, alter, or amend any of the instructions, terms, conditions, and/or specifications identified within the RFP documents issued, within any attachment or drawing or within any addenda issued. All addenda will be posted on FWHA's website [www.fwha.org](http://www.fwha.org) under Business Opportunities. Such changes that are issued before the proposal submission deadline shall be binding upon all prospective proposers.

- k. In the case of rejection of all proposals, FWHA reserves the right to advertise for new proposals or to proceed to do the work otherwise, if in the judgment of FWHA, the best interest of FWHA will be promoted.
- l. FWHA reserves the right to, without any liability, cancel the award of any proposal(s) at any time before the execution of the contract documents by all parties.
- m. FWHA reserves the right to reduce or increase estimated or actual quantities in whatever amount necessary without prejudice or liability to FWHA, if:
- n. Funding is not available,
- o. Legal restrictions are placed upon the expenditure of monies for this category of service or supplies; or,
- p. FWHA's requirements in good faith change after award of the contract.
- q. FWHA reserves the right to make an award to more than one proposer based on ratings and to award with or without negotiations or a "Best and Final Offer" (BAFO).
- r. FWHA reserves the right to require additional information from all proposers to determine level of responsibility. Such information shall be submitted in the form required by FWHA within two (2) days of written request.
- s. FWHA reserves the right to amend the contract any time prior to contract execution.
- t. FWHA reserves the right to require the Contractor to keep accurate timesheets for all employees assigned to perform any project, task, or assignment resulting from this RFP and any resulting contract.
- u. FWHA reserves the right to contact any individuals, entities, or organizations that have had a business relationship with the proposer regardless of their inclusion in the reference section of the proposal submittal.
- v. In the event any resulting contract is beached, prematurely terminated, or cancelled due to non-performance and/or withdrawal by the Contractor, FWHA reserves the right to seek monetary restitution (to included, but not limited to withholding of monies owned) from the Contractor to cover costs for interim services and/or cover the difference of the higher cost (difference between existing Contracted rate and new Contract rate) beginning the date of the Contractor's termination, breach, and/or cancellation through the contract expiration date.
- w. FWHA reserves the right to require the Contractor to replace any employee, subcontractor, or other individuals and/or entities, found to be unacceptable, performing work under any contract resulting from this RFP. Replacement shall occur within two (2) days of notification by FWHA.
- x. FWHA must maintain appropriate records (payrolls, work orders, job descriptions, training program materials and apprentice/trainee registrations and any other data related to the employment and utilization of maintenance laborers and mechanics) which must be preserved for no less than three years or until resolution of any dispute. Employers under contract to FWHA to provide maintenance work must submit to FWHA their original employment records as described above or agree to retain the original employment records for three years or until resolution of any dispute subject to this solicitation.

## 4. SCOPE OF WORK

In December, 2022 the FWHA was awarded a U.S. Department of Housing and Urban Development Choice Neighborhoods Planning Grant in the amount of \$500,000.00. One of the grants activities is to produce a market analysis of the targeted community for transformation. The targeted community is the Southeast Fort Wayne (SEFW) neighborhood.

In support of the SEFW neighborhood's long-term success, the FWHA seeks to understand the housing market in Southeast Fort Wayne area and assess the current and projected needs of the population within that market. Additionally, the Authority seeks to establish some baseline conditions in the market and evaluate the impact, existing and potential of the Choice Neighborhood program

- This report will engage with and answers the following key questions: What are the demographic and economic characteristics of the region?
- How are those characteristics expected to change in the next 5-, 10-, and 30-years?
- What is the state of the region's housing stock?
- What are the gaps in the current housing market as it relates to the availability of access to housing for various populations?
- To what extent are spatial patterns of housing currently (mis)matched to spatial patterns of the region's people and jobs?

In answering these questions, the report will provide the team with a tool to quickly scan and understand the current housing landscape while being flexible enough to respond to ongoing and emergent challenges.

### 1. Phase 1 – Regional Housing Market Inventory and Assessment

It will not be possible to prescribe courses of action – the end goal of Phase 2 – without first describing and diagnosing existing conditions. Phase 1 will build the descriptive and diagnostic foundations of the project in four domains: (1) population and demographics, (2) economic conditions, (3) housing conditions, and (4) housing submarkets.

#### Task 1: Population and Demographic Profile

Different individuals and households have different housing needs and desires. As such, any effort to better tailor a region's housing supply to its current and future demands must start from an understanding of *who* lives in the region, and *where* in the region they live. To answer these questions, we will collect and analyze population and demographic data for Southeast Fort Wayne, drawing from the U.S. Census Bureau's Decennial Census and American Community Survey programs, as well as commercial data sources such as Esri and Simply Analytics. Data will be summarized in narrative, tabular, and map formats and include historic, current, and future projections (where appropriate) for key data variables. Data will be collected at multiple geographic resolutions to assess spatial patterns and best evaluate how these patterns in one variable relate to or intersect with patterns in other variables. Among the subtasks to be taken up in this section are to:

- Construct a dynamic and geographic picture of changing population levels, to include forward-looking projections
- Build age profiles and projections
- Analyze and describe shifts in household types
- Analyze and describe shifts in population racial and ethnic composition

- Analyze and describe shifts in socioeconomic status

### **Task 2: Economic Profile**

It is essential for local decision-makers to understand their economies, both in terms of its position in the regional housing market as well as how opportunities are distributed (and changing) spatially within the community. In addition to inventorying and understanding existing economic conditions, it is critical that planners and other local stakeholders stay up-to-date on the economic geographies of their jurisdictions. Economic conditions must be engaged from a dynamic perspective, by viewing them through a spatiotemporal lens that magnifies trends and trajectories. Creating data-driven pictures of a region's economy and how it is changing empowers decision-makers to anticipate issues, identify leverage points, and make informed trade-offs with respect to scarce public resources.

For these reasons, we will conduct a comprehensive, forward-looking economic analysis for the Fort Wayne and Southeast Fort Wayne neighborhood and relevant subareas that performs the following tasks:

- Draws on commercial industry data, U.S. Census employment data, U.S. Census socioeconomic and demographic data, and local land use and zoning data to profile the region's overall economy;
- Summarizes current conditions and economic trends over time;
- Identifies specific economic strengths and specializations by subarea;
- Identifies specific opportunities that are emerging within the region;
- Provides maps, tables, descriptions, and other pertinent outputs to display current and near-term economic conditions in the region; and
- Offers interpretations of data and attempts to identify how changing economic conditions relate to changing population and demographic conditions, and what the patterns mean for housing.

### **Task 3: Housing Profile**

Connecting household, demographic, and regional economic data to the regional housing market is critical to the development of the comprehensive housing needs assessment that will be completed in Phase 2. This effort will be undertaken in with two key objectives.

First, it seeks to describe historic and current trends in the housing market, focusing on both aspatial and spatial description. We will draw on data from a number of sources to paint a comprehensive picture of the housing market at various geographic scales. Those data sources include:

**U.S. Census Bureau** – We will draw on the U.S. Census Bureau's Decennial Census, American Community Survey, Local Employer Household Dynamics (LEHD), and County Business Patterns (CBP) programs to conduct detailed housing analyses and profiles that are connected to related population and economic phenomena (see above). This includes, but is not limited to: housing stock and vacancy, residential tenure; housing cost and rent burdens; transportation and commuting data and transportation costs; employment trends by industry, earnings, age, and ethnicity; and location affordability.

**Home Mortgage Disclosure Act (HMDA) Data Products** – Drawing on past experiences studying patterns of lending activity, and disparities therein, we will obtain and analyze census tract-

level HMDA data on the loan opportunities available to prospective home buyers by borrow demographics, socioeconomic status, and geographic context of the proposed purchase area.

**Environmental Protection Agency (EPA) and Center for Neighborhood Technology (CNT)** – We will draw on the EPA's block group-level Smart Location and Location Affordability datasets to describe transportation costs and location efficiency across the study areas. These patterns will be analyzed for disparities along demographic and socioeconomic fault lines.

**EPA and WalkScore®** – We will obtain and analyze data on the “walkability” of the various neighborhood (specifically, census block groups) across the study area, relative to fair housing opportunities. Numerous studies have revealed several disparities that amount to “fair housing issues” per the definition from above. We propose to highlight key studies to include all of the jurisdictions and neighborhoods named in the Request for Proposals.

**HUD User** – We will rely on HUD User to for key data and information necessary to support an overall picture of the two-county housing market, including the American Housing Survey, HUD Median Family Income Limits, Fair Market Rents, and Low-Income Housing Tax Credit Data.

Second, this section will focus on a number of critical areas within the broader housing marker, specifically affordable housing; housing for persons with special needs; and homelessness.

#### **Task 4: Housing Gap Analysis**

In order to provide a simple snapshot of the regional housing market's supply of housing types, by geography, and the deficit of housing needed based on socio-economic and demographic characteristics, we will provide a brief, data-driven assessment of the current housing supply and match it to households and population type, specifically focusing on affordable housing and special needs populations. The focus on affordable housing will assess current programs including the Low- Income Housing Tax Credit (LIHTC) program; federally-funded and assisted housing programs under the Community Development Block Grant and HOME programs; and Rental Assisted Demonstration (RAD) conversion progress. Further, we will assess the current housing needs for households at 30%, 60%, and 80% of the area median income (AMI) and project those changes moving forward.

Specifically, using data from Tasks 1-3 above, it will identify where current gaps in the housing market exist based on recent population, income, and household trends.

#### **Task 5: Typology of Housing Submarkets**

Understanding the dynamics and spatial distributions of housing in Buffalo-Niagara requires a context-sensitive, geographic approach that engages with intra-regional differences in community type (e.g., rural, suburban, urban), sociodemographic profiles, housing stocks, tenure structures, and going market prices. Put another way, to understand housing issues in a meaningful way, it is necessary to engage with the concept of *market segmentation*. In brief, housing demand is characterized by ample diversity in preferences and ability to pay for, among other things, house types, sizes, locations, and neighborhood amenities. Yet, while each individual household will have unique tastes and abilities to pay for these variables, their diverse housing needs must necessarily be satisfied in a market characterized by an indivisible and durable housing supply. For that reason, housing is a composite good—each unit is made up of a set of structural, locational, and neighborhood attributes that, by and large, cannot



be divided and recombined to better satisfy individuals' unique preferences, desires, and budget constraints. Indeed, houses are generally spatially fixed in their locations, and, barring substantial investments by owners, reconfiguring a house's structural attributes tends to occur only slowly if at all.

The convergence of these powerful demand- and supply-side forces inevitably results in market segmentation. Whereas individual preferences and needs are all different, the relative inability of owners and builders to quickly tailor supply to meet those individualized preferences means that trade-offs must be made by households. Ultimately, households with correlated (though still distinctive) tastes and financial constraints tend to make similar trade-offs. When aggregated together, these correlated preferences and abilities to pay ensure that there is not a single housing market, but rather numerous submarkets within a single region. Submarkets come to be recognized by their “persistent and significant disparities in attribute prices...across housing bundles and urban space” according to Scott Orford. Housing submarkets are, in other words, clusters of similar and similarly priced housing bundles that are “relatively close [though not perfect] substitutes in the view of those who demand housing”.

This quick introduction sets the tone for our approach recognizing that **there is no single housing market in Southeast Fort Wayne** and, **as such, there can be no singular approach for managing the housing conditions**. Rather, it is necessary to dedicate time and effort to (1) identifying reasonable submarket boundaries, (2) inventorying and profiling trends and conditions in those submarkets, and, grounded in empirical trends and conditions, (3) establishing multi-pronged, context-sensitive goals and action plans for navigating from present circumstances toward more equitable and regionally-appropriate housing scenarios in the future.

Accomplishing such tasks requires multi-phase, multivariate analyses that expose where in the region typical housing bundles, and the market prices those bundles fetch, exhibit meaningful differences. If one of the defining features of submarkets is that they offer, on average, housing bundles at persistently and significantly different market prices, then measuring and mapping differentials in market housing value, after accounting for (in statistical terms, “controlling for”) differences in attributes, ought to shed light on the geographies of submarkets in the region.

Once submarkets are identified, they can be profiled and classified into a regional typology. This diagnostic typology – and accompanying profiles – will form the diagnostic backbone of the prescriptions to be taken up in Phase 2. In other words, numerous different “types” of housing profiles will result based on their shared households, income, tenure, and housing types.

#### **Task 6: Report Conclusions and Next Steps**

Grounded in the data and analysis from Tasks 1 through 5, the report will offer some general conclusions drawn from these analyses and provide recommendations for proactive/prescriptive goal setting in partnership with the region's housing stakeholders.

#### **Project Schedule**

We anticipate being able to complete this report within 90 days of contract execution. The Fort Wayne Housing Authority is in partnership with the city of Fort Wayne.

We anticipate having the ability to provide some preliminary findings and meet with FWHA development team and CNI Planning Partner, and a small number of chosen stakeholders to discuss in late summer 2024. That meeting will provide an opportunity to comment and feedback to enable us to prepare a final report that adequately and appropriately addresses the intent of the project.

## **5. RESPONDENT'S QUALIFICATIONS**

Qualified Respondents will have the following experience and expertise:

- Obtaining and analyzing land and urban economics;
- Obtaining and analyzing neighborhood data trends in housing;
- Understanding of housing types, financial structures, land use;
- Understanding of housing rent structures, mortgages and rent subsidies;
- Understanding of the built environment;
- Understanding of green sustainability, placemaking and the built environment;
- Understanding of zoning ordinances and variances;
- Understanding the impact and needs of infrastructure in neighborhoods;
- Understanding of technology and the use of technology to improve the infrastructure;
- Understand the impact of populations growth, shrinkage, overall fluctuations and how the housing industry is impacted.

## **6. COST PROPOSAL**

Please provide a cost proposal for the scope of work described in Section 4 of this RFP. The cost should include the cost for five (5) hard copies of the final market analysis and one electronic copy of the final market analysis. Cost should be a firm fixed fee amount.

## **7. GENERAL SOLICITATION**

In addition to the specifications listed in above, the following general conditions apply to any Contractor selected to do the work included in this RFP:

- The Contractor will supply all materials and equipment necessary to complete the task.
- The Contractor will provide schedule. Performance of the contract will be done in compliance with local ordinances. Any required meetings with FWHA staff shall take place between 7:00am and 5:00pm (Monday – Thursday).
- Work will be inspected by the FWHA staff after completion for acceptance of work. Invoices must be accompanied by an FWHA staff signature indicating acceptance of work. The FWHA will only pay for services rendered upon acceptance of work.
- The Contractor is responsible for any workers or subcontractors its has on the site. They shall ensure that anyone onsite shall have the appropriate protective gear and permission for access.
- Any work to be performance shall be done in the least instructive manner possible to resident since most properties are tenant occupied.
- The Contractor shall have all applicable licenses/permits, as required by local, state, and federal law.
- The Contract shall be responsible for any damage cause by their actions while onsite.
- The Contractor shall carry all applicable insurances (i.e. General Commercial Liability Workers' Compensation Liability, Automobile Liability).
- The Contractor shall abide by FWHA policies while on premises, including the Smoke-Free policy.
- The bidder may request to schedule an onsite visit. It is recommended that the bidder make such a request within a reasonable time, so as to provide the bidder adequate time

to complete the bid packet. No extension of time to complete the bid packet will be permitted for failure to attend the pre-bid meeting or schedule and alternate site visits.

- All materials and labor will be the responsibility of the contractor. All costs incurred, directly or indirectly by the Respondent including travel, preparation, submission, and miscellaneous expenses in response to this RFP are the sole responsibility of the Respondent and, as such, shall be borne solely by the Respondent.

## 8. CONTRACT PERIOD

From the date of the notice-to-proceed, the contract period shall be for a term of no more than 120 days. Initial contract period may change with mutual agreement of the parties as HUD's publishing schedule or parties' needs require.

## 9. PROPOSAL FORMAT/DUE DATE

### a. Contract Information.

This RFP is being issued by the FWHA. The Agency Contact Person for this RFP is:

Dana Christian

7315 Hanna Street

Fort Wayne, IN 46816

[dchristian@fwha.org](mailto:dchristian@fwha.org)

### b. RFP Submission and Format

All proposals must be submitted **electronically only**. It is the responsibility of the Respondent to ensure receipt by FWHA prior to the bid deadline.

**Proposals received after 11:00 am Eastern Time on September 18, 2023, will not be considered.**

## 10. EVALUATION

The Fort Wayne Housing Authority reserves the right to reject any or all proposals. The Housing Authority is an equal opportunity employer and contracting agency. To effectively respond to this RFP, the Proposal shall include the following:

### A. Minimum Requirements

- Proposals submitted by the Respondent must meet or exceed the administrative, professional, and financial proposals set forth in this RFP and shall provide the information requested below.
- Respondent must have at least three (3) years of experience in providing similar market analysis services for similar-sized agencies and municipalities.
- Respondent must provide at least three (3) references for which similar services have been performed within the last five (5) years and grants the right to FWHA to contact the references provided. Reference calls should be expected, and accurate contact information is critical.
- Respondents submitting proposal to the RFP must not be debarred, suspended, or otherwise prohibited from professional practice by any federal, state, or local agency. Preferred respondent would have no unsatisfactory record of performance with any public agency.
- Have the administrative and fiscal capability to provide and manager the proposed services in an efficient and timely manner including consideration for COVID setbacks with staff or timelines.

## **11. PROPOSAL SUBMISSION**

Proposer shall provide the following information as part of its proposal:

### Section 1: Administrative Proposals and Methodology (35 points)

- Name, address, telephone number, and email address of the Proposer submitted a proposal pursuant to this RFP, and the name and title of the contract person responsible for submitting the RFP.
- A description of the business organization (LLC, individual corporation, etc.), ownership documentation, and organizational chart.
- Competency of the company and/or the personnel assigned to the project as demonstrated by their proposals including resumes or bios for key personnel that will be responsible for the completion of the work identified in this RFP.
- A description of the methodology and approach to performing the market analysis and description of the timeframe for the draft and final deliverable.

### Section 2: Professional Requirements (35 points)

- Experience with urban revitalization strategies, inclusive of affordable housing, Low Income Housing Tax Credit, Choice Neighborhoods and other HUD programs.
- Experience with public housing authorities or similar operations.
- A list of all other engagements where services related to Market Analysis were provided within the past five (5) years. This should include other Public Housing Agencies, local governments, or non-profit CDC's or CHDO's.

### Section 3: Cost Proposal and Financial Strength (15 points)

Cost proposal shall contain a "firm-fixed -fee" for the completion of a Market Analysis as instructed in the Scope of Work in Section 4.

## **12. QUESTIONS**

All questions or request for information concerning this solicitation must be submitted in writing within five (5) business days prior to the closing deadline.

## **13. HOLD PRICES/NON-EXCALATION**

By submitting a bid, the bidder agrees to "hold" or not increase the bid prices for a minimum period of ninety (90) days. Quantities in this solicitation are for the purpose of determining best pricing per line item.

## **14. FEES**

All fees are all-inclusive of all related costs that a proposer will incur to provide the noted goods or services in compliance with this solicitation, including, but not limited to employee wages and benefits, clerical support, travel, and lodging, overhead, profit, licensing, insurance, materials, supplies, tools, equipment, long distance telephone calls, document copying and motor vehicle fuel, all costs shall be fully burdened.

## **15. BID COSTS**

FWHA shall not compensate any bidder for any costs that may be incurred in responding to this solicitation.

## **16. ASSIGNMENT OF PERSONNEL**

FWHA retains the right to demand and receive a change in personnel assigned by the Contractor to provide services to FWHA if FWHA believes that such change is in its best interest.

## **17. SECTION 3**

Training and Employment Opportunities for Residents in the Project Area (Section 3, HUD Act of 1968; 24 CFR 135). The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directly to low-and very low-income persons, particularly persons who are recipients of HUD assistance for housing. The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 135, which implement Section 3.

## **18. GENERAL CONDITIONS**

Acceptance by FWHA is required prior to payment. Acceptance will be based on adherence to the specifications, best industry practice and inspection by FWHA personnel. Contractor shall supply all material, labor, and equipment to complete the requirement of this solicitation unless otherwise specified in this solicitation.

## **19. RIGHT TO PROTEST**

Any prospective or actual proposer, offeror, or contractor who is allegedly aggrieved in connection with the solicitation of a proposal or award of a contract, shall have the right to protest. Such right only applies to deviations from laws, rules, regulations, or procedures. Disagreements with the evaluators' judgment as to the number of points scored are not reasons for an appeal. An alleged aggrieved protestant claiming this right is hereby informed that these regulations do not provide for administrative appeal as a matter of right for that alleged aggrieved protestant.

## **ATTACHMENTS**

Attachment A – Company Profile
Attachment B – Form of Proposal
Attachment C – Form HUD-5369 C
Attachment D – Profile of Firm Form
Attachment E – Section 3 Forms, including explanation
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## Housing Authority of the City of Fort Wayne, Indiana

### History

In 1937, the Indiana General Assembly adopted enabling legislation giving local government authority to participate in federal low-rent housing programs. Subsequently, on the 8th day of February 1938, the Common Council of the City of Fort Wayne, Indiana, passed a resolution creating the Housing Authority of the City of Fort Wayne, Indiana. FWHA is headed by an Executive Director (ED) and is governed by a seven-person board of commissioners and is subject to the requirements of Title 24 of the Code of Federal Regulations.

### Vision

FWHA cultivates vibrant, inclusive neighborhoods throughout Fort Wayne, where all residents have safe, quality, affordable housing and a high standard of living built on economic self-sufficiency.

### Mission

To revitalize the city of Fort Wayne by building and developing safe, quality, affordable housing options, while providing programs to foster community, alleviate poverty and encourage long-term economic self-sufficiency.

### Diversity, Equity, Inclusion and Belonging (DEIB) Statement

At FWHA diversity, equity, inclusion, and belonging are essential in carrying out our mission. We are committed to promoting inclusive environments that improve people's lives. We are building a culture where all forms of diversity are seen as real value to those we serve, our community, organization, and employees.

### Contact Information

Address: 7315 Hanna Street, Fort Wayne, Indiana 46816 Phone: 260.267.9300

Fax: 260.267.9306

Website: [fwha.org](http://fwha.org)

# Company Profile

## Housing Programs

- **Housing Choice Voucher Program**
  - Total Housing Choice Vouchers – 3139
    - Tenant Based Vouchers – 2989
      - Homeownership Program – 9
      - Project Based Vouchers– 207
      - Non-Elderly Disabled Vouchers – 75
      - VA Supported Housing (VASH) Vouchers – 110
      - Family Unification Program – 1
    - Foster Youth to Independence – 25
    - Mainstream 5 – 125
    - Emergency Housing Vouchers (EHV) - 46
    - Rental Assistance Demonstration Program –94
      - Number of Apartment Communities – 1
        - One Bedroom – 8
        - Two Bedroom – 20
        - Three Bedroom – 38
        - Four Bedroom – 18
        - Five Bedroom – 10
- **Public Housing Program**
  - Number of Apartment Communities – 11
  - Scattered Site Single Family Homes – 50
  - Total Public Housing Units – 660
    - Efficiency – 32
    - One Bedroom – 391
    - Two Bedroom – 78
    - Three Bedroom – 127
    - Four Bedroom – 26
    - Five Bedroom – 6
- **Tax Credit Program**
  - Number of Apartment Communities – 4
  - Total Units – 248
    - One Bedroom – 78
    - Two Bedroom – 86
    - Three Bedroom– 54
    - Four Bedroom – 18
    - Five Bedroom - 12
- **Market Rate Units (62+ Only)**
  - Total Units – 9
    - One Bedroom – 9



# Company Profile

## Employees

- Total Employees – 57
  - COCC
    - Executive Director – 1
    - Executive Assistant – 1
    - Chief Operating Officer - 1
    - Vice President of Finance – 1
    - Vice President of Asset Management – 1
    - Human Resources – 1
    - Administrative Assistant - 1
  - Finance
    - Senior Accountant – 1
    - Accountant – 1
    - Accounting Clerk – 1
  - Housing Choice Voucher Program
    - HCV Administrator - 1
    - HCV Quality Assurance Manager – 1
    - Housing Programs Manager - 1
    - Housing Programs Analyst – 1
    - Intake Coordinator -1
    - Intake Support Specialist – 1
    - Housing Coordinator - 1
    - Program Specialist – 6
    - Program Support Specialist - 1
  - Asset Management
    - Construction and Modernization Coordinator – 1
    - Property Manager – 5
    - Occupancy Coordinator –1
    - Assistant Manager – 2
    - Support Specialist – 1
    - Leasing Coordinator – 1
    - Customer Service – 1
    - Lead Maintenance – 4
    - Maintenance Technician - 6
  - Enrichment and Career Services
    - Program Manager – 3
    - Program Coordinator – 2
    - Affordable Connectivity Program Specialists – 2

# Company Profile

- YouthBuild
  - Program Director – 1
  - Program Manager – 1
  - Case Manager – 1
  - Job Developer - 1

## Form of Proposal

Instructions: Unless otherwise specifically required, the items listed below must be completed and included in the proposal submittal. Please complete this form by marking an "X," where provided, to verify that the referenced completed form or information has been included within the proposal submittal submitted by the proposer. Also, complete the Section 3 Statement and the Proposer's Statement as noted below:

Tab 1	Form of Proposal (Attachment B)
Tab 2	Form HUD-5369-C (Attachment C)
Tab 3	Profile of Firm Form (Attachment D)
Tab 4	Proposed Services
Tab 5	Managerial Capacity/Financial Viability, including resumes
Tab 6	Client Information
Tab 7	Equal Employment Opportunity Statement
Tab 8	Subcontractor/Joint Venture Information (Optional)
Tab 9	Section 3 Business Preference Documentation (Optional; Attachment E)
Tab 10	Other Information (Optional)

### SECTION 3 STATEMENT

Are you claiming a Section 3 business preference? YES\_\_\_or NO\_\_\_ If "YES," pursuant to the Section 3 portion within the Conditions and Specifications, and pursuant to the documentation justifying such submitted under Section No. 9, which priority are you claiming?\_\_\_\_\_.

### PROPOSER'S STATEMENT

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

---

Signature

Date

---

Printed Name

Company

# Certifications and Representations of Offerors

## Non-Construction Contract

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

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

### 1. Contingent Fee Representation and Agreement

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

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

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

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

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

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

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

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

(Check the block applicable to you)

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

### 3. Certificate of Independent Price Determination

(a) The bidder/offeror certifies that—

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

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

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

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

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

#### 4. Organizational Conflicts of Interest Certification

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

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

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

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

(b) The Contractor agrees that if after award he or she discovers an organizational conflict of interest with respect to this

contract, he or she shall make an immediate and full disclosure in writing to the HA which shall include a description of the action which the Contractor has taken or intends to eliminate or neutralize the conflict. The HA may, however, terminate the Contract for the convenience of HA if it would be in the best interest of HA.

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

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

#### 5. Authorized Negotiators (RFPs only)

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

#### 6. Conflict of Interest

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

#### 7. Offeror's Signature

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

---

Signature & Date:

---

Typed or Printed Name:

---

Title:

---

## Profile of Firm Form

(1) Prime\_\_\_\_Sub-contractor\_\_\_\_\_(This form must be completed by and for each).

(2) Name of Firm:\_\_\_\_\_Telephone:\_\_\_\_\_Fax: \_\_\_\_\_

(3) Street Address, City, State, Zip:\_\_\_\_\_

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

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

NAME	TITLE	% OF OWNERSHIP

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

NAME	TITLE

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

Caucasian American (Male) \_\_\_\_\_%     
  Public-Held Corporation \_\_\_\_\_%     
  Government Agency \_\_\_\_\_%     
  Non-Profit Organization \_\_\_\_\_%

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

Resident-Owned\* \_\_\_\_\_%     
  African American \_\_\_\_\_%     
  \*\*Native American \_\_\_\_\_%     
  Hispanic American \_\_\_\_\_%     
  Asian/Pacific American \_\_\_\_\_%     
  Hasidic Jew \_\_\_\_\_%     
  American American \_\_\_\_\_%

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

WMBE Certification Number: \_\_\_\_\_

Certified by (Agency): \_\_\_\_\_

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

## Profile of Firm Form

- (8) Federal Tax ID No.: \_\_\_\_\_
- (9) [APPROPRIATE JURISDICTION] Business License No.: \_\_\_\_\_
- (10) State of \_\_\_\_\_ License Type and No.: \_\_\_\_\_
- (11) Worker's Compensation Insurance Carrier: \_\_\_\_\_  
Policy No.: \_\_\_\_\_ Expiration Date: \_\_\_\_\_
- (12) General Liability Insurance Carrier: \_\_\_\_\_  
Policy No. \_\_\_\_\_ Expiration Date: \_\_\_\_\_
- (13) Professional Liability Insurance Carrier: \_\_\_\_\_  
Policy No. \_\_\_\_\_ Expiration Date: \_\_\_\_\_
- (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 \_\_\_\_\_, or any local government agency within or without the State of \_\_\_\_\_? Yes  No   
If "Yes," please attach a full detailed explanation, including dates, circumstances, and status.
- (15) Disclosure Statement: Does this firm or any principals thereof have any current, past personal or professional relationship with any Commissioner or Officer of the HA? Yes  No   
If "Yes," please attach a full detailed explanation, including dates, circumstances, and status.
- (16) Non-Collusive Affidavit: The undersigned party submitting this proposal hereby certifies that such proposal is genuine and not collusive and that said proposer entity has not colluded, conspired, connived or agreed, directly or indirectly, with any proposer or person, to put in a sham proposal or to refrain from proposing, and has not in any manner, directly or indirectly sought by agreement or collusion, or communication or conference, with any person, to fix the proposal price of affiant or of any other proposer, to fix overhead, profit or cost element of said proposal price, or that of any other proposer or to secure any advantage against the HA or any person interested in the proposed contract; and that all statements in said proposal are true.
- (17) Verification Statement: The undersigned proposer hereby states that by completing and submitting this form he/she is verifying that all information provided herein is, to the best of his/her knowledge, true and accurate, and agrees that if the HA discovers that any information entered herein is false, that shall entitle the HA to not consider nor make award or to cancel any award with the undersigned party.

---

Signature

Date

---

Printed Name

Company

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

NAME OF BUSINESS: \_\_\_\_\_

ADDRESS OF BUSINESS: \_\_\_\_\_

TYPE OF BUSINESS:  Corporation     Partnership     Sole Proprietorship     Joint Venture

**Attached is the following documentation as evidence of status:**

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

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

**For the business entity as applicable:**

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

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

subcontracted Section 3 business and subcontract amount

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

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

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

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

**Corporate Seal**

\_\_\_\_\_  
Authorizing Name and Signature

\_\_\_\_\_  
Notary

\_\_\_\_\_  
Title

My term expires: \_\_\_\_\_

Signature

Date

Printed Name



SUGGESTED AFFIRMATIVE ACTION PLAN FOR UTILIZATION OF PROJECT AREA BUSINESSES

Number of All Contracts Proposed: \_\_\_\_\_  
Name of Company: \_\_\_\_\_  
Dollar Value of All Contracts Proposed: \_\_\_\_\_  
Project: \_\_\_\_\_

To the Greatest Extent Feasible, Contracts Will Be Awarded Through Negotiation or Proposal to Qualified Project Area Businesses.

Goal of These Contracts for Project Area Businesses:

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

Outline the Program to Achieve These Goals for Economically and Socially Disadvantaged:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

NOTE: To Complete the Affirmative Action Plan, Follow Steps Outlines in Attached Exhibit.

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

\_\_\_\_\_  
Signature Printed Name Date

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

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

COMPANY NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

PROJECT: \_\_\_\_\_

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

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

\_\_\_\_\_  
Signature Printed Name Date

## SECTION 3 BUSINESS PREFERENCE CLAUSE

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

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

# PREFERENCE FOR SECTION 3 BUSINESS CONCERNS IN CONTRACTING OPPORTUNITIES

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

## Priority I

### Category 1a Business

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

## Priority II

### Category 1b Business

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

## Priority III

### Category 2a Business

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

## Priority IV

### Category 2b Business

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

## Priority V

### Category 3 Business

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

## Priority VI

### Category 4a Business

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

## Priority VII

### Category 4b Business

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

## Eligibility for Preference

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

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

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

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

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**1. Preparation of Offers**

the ability to obtain them;

- (a) Offerors are expected to examine the statement of work, the proposed contract terms and conditions, and all instructions. Failure to do so will be at the offeror's risk.
- (b) Each offeror shall furnish the information required by the solicitation. The offeror shall sign the offer and print or type its name on the cover sheet and each continuation sheet on which it makes an entry. Erasures or other changes must be initialed by the person signing the offer. Offers signed by an agent shall be accompanied by evidence of that agent's authority unless that evidence has been previously furnished to the HA.
- (c) Offers for services other than those specified will not be considered.

**2. Submission of Offers**

- (a) Offers and modifications thereof shall be submitted in sealed envelopes or packages (1) addressed to the office specified in the solicitation, and (2) showing the time specified for receipt, the solicitation number, and the name and address of the offeror.
- (b) Telegraphic offers will not be considered unless authorized by the solicitation; however, offers may be modified by written or telegraphic notice.
- (c) Facsimile offers, modifications or withdrawals will not be considered unless authorized by the solicitation.

**3. Amendments to Solicitations**

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

**4. Explanation to Prospective Offerors**

Any prospective offeror defiling 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 HA/HUD.

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

#### **6. Late Submissions, Modifications, and Withdrawal of Offers**

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

- (1) Was sent by registered or certified mail not later than the fifth calendar day before the date specified for receipt of offers (e.g., an offer submitted in response to a solicitation requiring receipt of offers by the 20th of the month must have been mailed by the 15th);
- (2) Was sent by mail, or if authorized by the solicitation, was sent by telegram or via facsimile, and it is determined by the HA/ HUD that the late receipt was due solely to mishandling by the HA/ HUD after receipt at the HA;
- (3) Was sent by U.S. Postal Service Express Mail Next Day

Service - Post Office to Addressee, not later than 5:00 p.m. at the place of mailing two working days prior to the date specified for receipt of proposals. The term "Working days" excludes weekends and U.S. Federal holidays; or

(4) Is the only offer received.

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

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

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

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

(h) If this solicitation is a request for proposals, proposals may be withdrawn by written notice, or if authorized by this solicitation, by telegram (including mailgram) or facsimile machine transmission received at any time before award. Proposals may be withdrawn in person by an offerer 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 offerer 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 offerer'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 offerer 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 protester.

## 9. Offer Submission

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

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

[Describe bid or proposal preparation instructions here:]





# General Conditions for Non-Construction Contracts

## Section I – (With or without Maintenance Work)

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

Office of Public and Indian Housing  
Office of Labor Relations

OMB Approval No. 2577-0157 (exp. 3/31/2010)

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

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

- 1) **Non-construction contracts** (*without* maintenance) **greater than \$100,000 - use Section I;**
- 2) **Maintenance contracts** (including nonroutine maintenance as defined at 24 CFR 968.105) **greater than \$2,000 but not more than \$100,000 - use Section II;** and
- 3) **Maintenance contracts** (including nonroutine maintenance), **greater than \$100,000 – use Sections I and II.**

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**Section I - Clauses for All Non-Construction Contracts greater than \$100,000**  
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### 1. Definitions

The following definitions are applicable to this contract:

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

### 2. Changes

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

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

### 3. Termination for Convenience and Default

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

### 4. Examination and Retention of Contractor's Records

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



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

#### 5. Rights in Data (Ownership and Proprietary Interest)

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

#### 6. Energy Efficiency

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

#### 7. Disputes

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

#### 8. Contract Termination; Debarment

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

#### 9. Assignment of Contract

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

#### 10. Certificate and Release

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

#### 11. Organizational Conflicts of Interest

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

#### 12. Inspection and Acceptance

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

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

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

### 13. Interest of Members of Congress

No member of or delegate to the Congress of the United States of America or Resident Commissioner shall be admitted to any share or part of this contract or to any benefit to arise 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) Prohibition.

- (i) Section 1352 of title 31, U.S.C. provides in part that no appropriated funds may be expended by the recipient of a Federal contract, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered Federal actions: the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (ii) The prohibition does not apply as follows:

- (1) Agency and legislative liaison by Own Employees.
- (a) The prohibition on the use of appropriated funds, in paragraph (i) of this section, does not apply in the case of a payment of reasonable compensation made to an officer or employee of a person requesting or receiving a Federal contract, grant, loan, or cooperative agreement, if the payment is for agency and legislative activities not directly related to a covered Federal action.
- (b) For purposes of paragraph (b)(i)(1)(a) of this clause, providing any information specifically requested by an agency or Congress is permitted at any time.
- (c) The following agency and legislative liaison activities are permitted at any time only where they are not related to a specific solicitation for any covered Federal action:
- (1) Discussing with an agency (including individual demonstrations) the qualities and characteristics of the person's products or services, conditions or terms of sale, and service capabilities; and,
- (2) Technical discussions and other activities regarding the application or adaptation of the person's products or services for an agency's use.
- (d) The following agency and legislative liaison activities are permitted where they are prior to formal solicitation of any covered Federal action:
- (1) Providing any information not specifically requested but necessary for an agency to make an informed decision about initiation of a covered Federal action;
- (2) Technical discussions regarding the preparation of an unsolicited proposal prior to its official submission; and
- (3) Capability presentations by persons seeking awards from an agency pursuant to the provisions of the Small Business Act, as amended by Public Law 95-507 and other subsequent amendments.
- (e) Only those activities expressly authorized by subdivision (b)(ii)(1)(a) of this clause are permitted under this clause.
- (2) Professional and technical services.
- (a) The prohibition on the use of appropriated funds, in subparagraph (b)(i) of this clause, does not apply in the case of-
- (i) A payment of reasonable compensation made to an officer or employee of a person requesting or receiving a covered Federal action or an extension, continuation, renewal, amendment, or modification of a covered Federal action, if payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action.
- (ii) Any reasonable payment to a person, other than an officer or employee of a person requesting or receiving a covered Federal action or an extension, continuation, renewal, amendment, or modification of a covered Federal action if the payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action. Persons other than officers or employees of a person requesting or receiving a covered Federal action include consultants and trade associations.
- (b) For purposes of subdivision (b)(ii)(2)(a) of clause, "professional and technical services" shall be limited to advice and analysis directly applying any professional or technical discipline.
- (c) Requirements imposed by or pursuant to law as a condition for receiving a covered Federal award include those required by law or regulation, or reasonably expected to be required by law or regulation, and any other requirements in the actual award documents.
- (d) Only those services expressly authorized by subdivisions (b)(ii)(2)(a)(i) and (ii) of this section are permitted under this clause.
- (iii) Selling activities by independent sales representatives.
- (c) The prohibition on the use of appropriated funds, in subparagraph (b)(i) of this clause, does not apply to the following selling activities before an agency by independent sales representatives, provided such activities are prior to formal solicitation by an agency and are specifically limited to the merits of the matter:
- (i) Discussing with an agency (including individual demonstration) the qualities and characteristics of the person's products or services, conditions or terms of sale, and service capabilities; and
- (ii) Technical discussions and other activities regarding the application or adaptation of the person's products or services for an agency's use.
- (d) Agreement. In accepting any contract, grant, cooperative agreement, or loan resulting from this solicitation, the person submitting the offer agrees not to make any payment prohibited by this clause.
- (e) Penalties. Any person who makes an expenditure prohibited under paragraph (b) of this clause shall be subject to civil penalties as provided for by 31 U.S.C. 1352. An imposition of a civil penalty does not prevent the Government from seeking any other remedy that may be applicable.
- (f) Cost Allowability. Nothing in this clause is to be interpreted to make allowable or reasonable any costs which would be unallowable or unreasonable in accordance with Part 31 of the Federal Acquisition Regulation (FAR), or OMB Circulars dealing with cost allowability for recipients of assistance agreements. Conversely, costs made specifically unallowable by the requirements in this clause will not be made allowable under any of the provisions of FAR Part 31 or the relevant OMB Circulars.

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## 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

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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.



