



INVITATION FOR BIDS

PEST CONTROL SERVICES

FOR

**MEMPHIS HOUSING AUTHORITY'S
PROPERTIES**

SOLICITATION NO: AM 23-B-00650

Issued: September 19, 2022

Due Date: October 18, 2022

**Memphis Housing Authority
700 Adams Avenue
Memphis, TN 38105**

*An Equal Opportunity Employee
An Equal Housing Provider*

MEMPHIS HOUSING AUTHORITY
Executive Summary

Date: September 19, 2022
To: Prospective Bidders
Subject: Invitation for Bid Number: AM 23-B-00650

Separate sealed bids for pest control services for Memphis Housing Authority will be received at the following address:

Contracting Office
Memphis Housing Authority
700 Adams Avenue, Room 106E
Memphis, TN 38105-5029

NO LATER THAN 3:00 p.m. local time, Tuesday, October 18, 2022, and then opened and publicly read aloud.

By submission of a bid, the bidder agrees if its bid is accepted, they will enter into a contract with the Memphis Housing Authority for a period of one (1) year, with the option to renew for up to four (4) additional years. They further agree to complete all work as specified or indicated in the contract documents, for the contract price and within the contract time as indicated in the attached IFB. The bidder also accepts all of the terms and conditions of the IFB.

The bid shall remain open for the period specified in the IFB, must be independently arrived at, and be prepared in accordance with the Instruction to Bidders (form HUD-5369). In addition, the HUD required certifications must be completed and submitted as part of the bid (see form HUD-5369A).

A pre-bid conference is scheduled for Thursday, September 29, 2022, at 10:00 a.m. All bidders are encouraged to meet at 700 Adams Avenue, Room 216. Questions about the IFB will be addressed according to HUD guidelines for the seal bid process.

The total contract amount shall not be exceeded without a written change order. The bidder is advised to include the amount of labor and material costs, overhead and profit, etc. in their bid.

It should be noted that in order for Memphis Housing Authority to obtain the necessary services in a timely manner, multiple awards may be made.

Bidders are advised that, prior to award of any contract, the Memphis Housing Authority reserves the right to conduct a pre-award survey for the purpose of determining the prospective contractor's responsibility and capacity to perform the contract.

This survey may include a review of subcontracting agreements, financial capacity and quality of work performed on other contracts.

Due to the possibility of a conflict of interest, all contractors are prohibited from hiring current Memphis Housing Authority employees on a full-time, part-time or temporary basis in any capacity.

Late bids will be handled in accordance with the form HUD-5369.

Questions regarding the attached IFB should be directed to David Walker, Purchasing Manager at (901) 544-1298. The deadline for questions is no later than 3:00 p.m. on Wednesday, October 5, 2022. Questions must be submitted in writing by emailed to dwalker@memphisha.org.

MHA will not discriminate against any individual or individuals for contracts because of race, color, religion, sex, national origin, age, handicap, status as a Vietnam-era or special disabled veteran, political affiliation or union affiliation, in accordance with applicable state and federal laws.

David Walker,
Purchasing Manager

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SECTION

A

PRICES

Solicitation No: AM 23-B-00650

ITEM	DESCRIPTION Pest Control Services for Memphis Housing Authority's Properties for a period of one (1) year with an optional four (4) – one-year periods.
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Amount (4-Full Treatments each year)

Montgomery Plaza	\$ _____
Jefferson Square	\$ _____
Borda Towers	\$ _____
Barry Towers	\$ _____
Venson Center	\$ _____
College Park Community Bldg	\$ _____
Small Warehouse at Central Office	\$ _____
Kefauver Terrace	\$ _____
Askew Place	\$ _____
GE Patterson Pointe	\$ _____
Central Office	\$ _____
Grand Total (1 st Yr)	\$ _____

* The prevailing wage rate for occupation code 99410-Pest Controller shall be paid no less than the service contracted amount of \$15.45 per hour + fringes \$3.59 per hour for a total of \$19.04 per hour. Payrolls must be maintained 3-years after the contract end date and is subject to review by MHA and the Department of Labor at anytime during the contract.

Solicitation No: AM 23-B-00650

ITEM	DESCRIPTION
0002	Additional Pest Control Services and cost

Black Widow (Separate Line Item)

As Needed \$ _____ Per Treatment

Brown Recluse (Separate Line Item)

As Needed \$ _____ Per Treatment

Normal household treatment (per separate incident) manager authorization only.

As Needed \$ _____ Per Treatment

SECTION

B

STATEMENT OF WORK

STATEMENT OF WORK

SOLICITATION NO: AM 23-B-00650

GENERAL:

The Authority is a large public housing agency with approximately 1,033 conventional housing units located at nine (10) locations within the city limits of Memphis, Tennessee. A listing of the current communities, which includes the location and total number of units by bedroom size is attached as Exhibit A. In the future, this listing may be subject to change, pending acquisition and/or deletion of additional properties. A corresponding increase or decreased in the contract amount may be necessary.

The successful bidder shall provide all parts, materials, supplies and labor to perform routine extermination services as part of the Authority's preventive maintenance program, which shall include one (1) initial treatment (cleanout) per unit and follow-up treatments at the rate of three (3) per year. The successful bidder shall be bonded and shall secure, maintain:

- 1) Pest Control Insurance: \$1M per occurrence & 2M aggregate.
- 2) General Liability Insurance: \$2M per occurrence & 2M aggregate.
- 3) List MHA as additionally insured on the Pest Control & General Liability Insurance policies.
- 4) Acquire permits, fees and licenses necessary for the proper execution and completion of work.

All service provided under this contract shall be in accordance with all state and local pest control requirements and regulations. State regulatory and licensing agency rules and standards shall have priority over any standard set forth in these specifications.

The successful contractor **MUST** be capable of providing staff and manpower to provide initial treatment and recall treatment for two (2) or more communities at the same time.

The initial treatment of all units to include vacancies next to or adjacent to occupied units shall be performed within three (3) months of the contract start date or the date specified in the Notice to Proceed. The Contractor shall provide a written schedule (addendum) of the dates the initial treatment will begin and end at each site. (Schedule is subject to approval by the Housing Authority).

The Authority shall provide residents with notification prior to schedule start dates. Units range in size from 1 to 6 bedrooms, with the 4 to 6 bedroom units having one (1) additional bathroom.

Call-back treatment to previously treated units where infestation is still evident may be initiated by Housing Authority staff, site managers and/or the Contractor. All call-back treatments shall be completed within five (5) working days of the request. There will be a thirty (30) day warranty on all work.

The Housing Authority shall provide access to treatment areas at pre-arranged times in accordance with a treatment schedule developed jointly by the Housing Authority and the Contractor.

Treatment must treat all existing and potential harborage sites through the use of diversified techniques, tools and materials to increase the likelihood of a successful treatment.

The treatment program may be a spraying program, using approved sprays, applied to all required areas. Extreme care shall be used during the application of spray. The contractor is to ensure that spray is not applied to occupant's personal property including personal belongings, such as tables, night stands, dressers and other furniture. The contractor shall be liable for any and all damage, i.e., spotting or staining, to occupant's personal property due to inadvertent over spray of pesticide. Treatment methods may also include boric acid, bait and repellants, etc.

Spillage and overruns shall be wiped clean. Dusts shall be used in treatment of cracks and crevices where there is not a possibility of contamination and shall be used exclusively in treatment between floors and ceilings except where such areas are not accessible.

Nests and breeding areas shall be destroyed and removed where possible and the areas thoroughly treated.

The pesticide AVERT (or its equivalent) can be used and shall be applied per the manufacturer's recommendations in quantities and locations to comply with all existing codes.

In addition to the residential units, the successful bidder shall also provide initial treatments (cleanout) and follow-up on the Authority's Central Office located at 700 Adams Avenue and all dumpster locations at each site during the spring and summer months (April-Sept.) upon each full quarterly visit per site. Total number of dumpsters is 42 throughout all property locations.

GENERAL CONDITIONS:

All services provided under this contract shall be in accordance with all state and local pest control requirements and regulations. Contractor shall hold all necessary state licenses and all operating personnel shall be thoroughly trained and certified, if applicable, according to existing state requirements for effectiveness and safety.

Contractor shall assure maximum precautions for resident safety in use of chemicals or any products or equipment which might be hazardous if improperly handled. Safety precautions shall preclude unlimited or unprotected use of such chemicals, products, or equipments. The safety of residents shall be a priority over pest eradication.

Service provided under this contract shall not include any structural repairs of damage existing prior to commencement of service or not determined to be the fault of the Contractor. Any structural damage or repairs needed and so noted by the Contractor shall be reported to the Site/Property Manager immediately. Damage caused by the Contractor shall be corrected by the Contractor within seven (7) working days after receipt of notice from the Housing Authority.

Contractor shall provide Material Safety Data Sheets (MSDS) to the Housing Authority on all chemicals used.

TYPES OF PESTS TO BE CONTROLLED:

Control of cockroaches, ants, spiders and silverfish shall include inspection, identification of and treatment to eliminate infestations and to prevent future infestations of but not necessarily limited to the following species:

1. American – *Periplaneta Americana* (Linnaeus)
2. German – *Blattella germanica* (Linnaeus)
3. Oriental – *Blatta orientalis* (Linnaeus)
4. Brown-banded – *Supella longipalpis* (Serville)
5. Smokey-brown – *Periplaneta fuliginosa* (Serville)
6. Australian – *Periplaneta australasiae* (Fabricius)
7. Brown – *Periplaneta brunnea* (Burmeister)
8. Woods – *Parcoblatta* spp.
9. Other species of cockroaches which might occur in isolated locations
10. All ants
11. Silverfish – *Lepisma saccharina* (Linnaeus)
12. All spiders (including Brown Recluse and Black Widow)
13. Mice control within the unit

Treatment to be provided upon request:

- Rats
- Flea and fly control
- Snakes
- Mosquito control
- Follow-up treatment (Complaint)
- Follow-up treatment (Vacancy)
- Treatment in and around dumpsters (Flies)
- Gnats
- Bees
- Wasps
- Fleas
- Lice

AREAS OF TREATMENT:

Contractor shall locate nests, routes of travel and points of entry and shall treat in those areas as well as all doorsills, window frames and other potential points of entry.

Contractor shall inspect and treat other areas including, but not necessarily limited to:

1. Cracks behind baseboards, door frames and window casings
2. Crevices between furniture or appliances and walls.
3. Leg contacts with floors
4. Cracks behind wall outlets and light switches
5. False bottom cabinets
6. Circuit boxes
7. Hollow legs of appliances
8. Shelf brackets
9. Under tabletops
10. Behind sinks

11. Cracks at pipes and wiring through walls and floors
12. Around baseboards
13. In all closets
14. Around thresholds
15. Inside cabinets
16. Motor compartments of all appliances
17. Around and above heating ducts whether exposed or unexposed
18. Shelves/Pantry
19. Trash Chutes
20. Public Restrooms

UNIT PREPARATION:

The Contractor shall provide the Housing Authority with written instructions for residents detailing the resident requirements for Unit Preparation of the entire unit. Non-preparation after adequate notice of treatment may constitute a lease violation.

Beyond these measures to be taken by the Housing Authority, the Contractor will bear all costs associated with adequate unit preparation for initial and callback treatment.

Number of Units to treat under contract (see attachment for addresses)

Montgomery Plaza	100 Units/27 bldgs, 8-dumpsters
Jefferson Square	208 Units/1 bldg, 10-dumpsters
Borda Towers	206 Units/1 bldg, 8-dumpsters
Barry Towers	198 Units/1 bldg, 7-dumpsters
Venson Center	215 Units/1 bldg, 8-dumpsters
College Park Community Bldg & Small shop	2 bldgs, 2-dumpsters
Central Office bldg	1 bldg, 1-dumpster
Small Warehouse at Central Office	1 bldg
Askew Place	25 bldgs
GE Patterson Pointe	40 Units/29 bldgs
Kefauver Terrace	41 Units/7 bldgs, 1-dumpster

MHA Properties Square Footage

College Park Community Building	21,123 sq. ft.
Central Office	38,000 sq. ft.
Pink Warehouse	9,000 sq. ft.

PEST CONTROL LISTING

MEMPHIS HOUSING AUTHORITY

ASSET MANAGEMENT DEPARTMENT

Dev. No.	Development	Office Address (Zip Code)	Total Dwell. Units	Depro. Units	Available for Occup.	0 Bd/Rm	1 Bd/Rm	2 Bd/Rm	3 Bd/Rm	4 Bd/Rm	5 Bd/Rm	6 Bd/Rm
TN 1-13	Barry Homes	255 Lauderdale St. (38105)	198	1	197	103	92	0	0	0	0	0
TN 1-14	Venson Center	439 Beale St. (38105)	215	0	215	122	91	1	0	0	0	0
TN 1-18	Jefferson Square	741 Adams Ave. (38105)	208	1	207	143	62	1	0	0	0	0
TN 1-21	Montgomery Plaza	1395 Pennsylvania St. (38106)	100	1	99	0	15	21	35	20	5	1
TN 1-23	Borda Towers	21 Neely St. (38105)	206	1	205	131	71	2	0	0	0	0
TN 1-51	Askew Place	430 S. Lauderdale St. (38126)	28	0	28	0	0	4	13	11	0	0
TN 1-55	GE Patterson Pointe	886 Latham (38126)	40	0	40	0	0	18	16	4	0	0
TN 1-76	Kefauver Terrace	7620 Robinson Cove (38002)	44	2	42	19	23	0	0	0	0	0
	College Park Comm Bldg	990 College Park (38126)										
	MHA Central Office	700 Adams (38105)										
	MHA warehouse	700 Adams (38105)										
		TOTAL MHA MANAGED	1039	6	1033	518	354	47	64	35	5	1

HUD
REQUIRED
DOCUMENTS

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

**Representations, Certifications,
and Other Statements of Bidders
Public and Indian Housing Programs**

Representations, Certifications, and Other Statements of Bidders Public and Indian Housing Programs

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1. Certificate of Independent Price Determination

(a) The bidder certifies that--

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

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

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

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

(1) Is the person in the bidder'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's organization responsible for determining the prices offered in this bid or proposal, and the title of his or her position in the bidder'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 deletes or modifies subparagraph (a)2 above, the bidder must furnish with its bid a signed statement setting forth in detail the circumstances of the disclosure.

(Contracting Officer check if following paragraph is applicable)

(d) Non-collusive affidavit. (applicable to contracts for construction and equipment exceeding \$50,000)

(1) Each bidder shall execute, in the form provided by the PHA/IHA, an affidavit to the effect that he/she has not colluded with any other person, firm or corporation in regard to any bid submitted in response to this solicitation. If the successful bidder did not submit the affidavit with his/her bid, he/she must submit it within three (3) working days of bid opening. Failure to submit the affidavit by that date may render the bid nonresponsive. No contract award will be made without a properly executed affidavit.

(2) A fully executed "Non-collusive Affidavit" is, is not included with the bid.

2. Contingent Fee Representation and Agreement

(a) Definitions. As used in this provision:

"Bona fide employee" means a person, employed by a bidder and subject to the bidder's supervision and control as to time, place, and manner of performance, who neither exerts, nor proposes to exert improper influence to solicit or obtain contracts nor holds out as being able to obtain any contract(s) through improper influence.

"Improper influence" means any influence that induces or tends to induce a PHA/IHA employee or officer to give consideration or to act regarding a PHA/IHA contract on any basis other than the merits of the matter.

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

(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.

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

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

3. Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions (applicable to contracts exceeding \$100,000)

(a) The definitions and prohibitions contained in Section 1352 of title 31, United States Code, are hereby incorporated by reference in paragraph (b) of this certification.

(b) The bidder, by signing its bid, hereby certifies to the best of his or her knowledge and belief as of December 23, 1989 that:

(1) No Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with the awarding of a contract resulting from this solicitation;

(2) If any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with this solicitation, the bidder shall complete and submit, with its bid, OMB standard form LLL, "Disclosure of Lobbying Activities;" and

(3) He or she will include the language of this certification in all subcontracts at any tier and require that all recipients of subcontract awards in excess of \$100,000 shall certify and disclose accordingly.

(c) Submission of this certification and disclosure is a prerequisite for making or entering into this contract imposed by section 1352, title 31, United States Code. Any person who makes an expenditure prohibited under this provision or who fails to file or amend the disclosure form to be filed or amended by this provision, shall be subject to a civil penalty of not less than \$10,000, and not more than \$100,000, for each such failure.

(d) Indian tribes (except those chartered by States) and Indian organizations as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450B) are exempt from the requirements of this provision.

4. Organizational Conflicts of Interest Certification

The bidder certifies that to the best of its knowledge and belief and except as otherwise disclosed, he or she does not have any organizational conflict of interest which is defined as a situation in which the nature of work to be performed under this proposed contract and the bidder's organizational, financial, contractual, or other interests may, without some restriction on future activities:

- (a) Result in an unfair competitive advantage to the bidder; or,
- (b) Impair the bidder's objectivity in performing the contract work.

[] In the absence of any actual or apparent conflict, I hereby certify that to the best of my knowledge and belief, no actual or apparent conflict of interest exists with regard to my possible performance of this procurement.

5. Bidder's Certification of Eligibility

(a) By the submission of this bid, the bidder certifies that to the best of its knowledge and belief, neither it, nor any person or firm which has an interest in the bidder's firm, nor any of the bidder's subcontractors, is ineligible to:

(1) Be awarded contracts by any agency of the United States Government, HUD, or the State in which this contract is to be performed; or,

(2) Participate in HUD programs pursuant to 24 CFR Part 24.

(b) The certification in paragraph (a) above is a material representation of fact upon which reliance was placed when making award. If it is later determined that the bidder knowingly rendered an erroneous certification, the contract may be terminated for default, and the bidder may be debarred or suspended from participation in HUD programs and other Federal contract programs.

6. Minimum Bid Acceptance Period

(a) "Acceptance period," as used in this provision, means the number of calendar days available to the PHA/IHA for awarding a contract from the date specified in this solicitation for receipt of bids.

(b) This provision supersedes any language pertaining to the acceptance period that may appear elsewhere in this solicitation.

(c) The PHA/IHA requires a minimum acceptance period of [Contracting Officer Insert time period] calendar days.

(d) In the space provided immediately below, bidders may specify a longer acceptance period than the PHA's/IHA's minimum requirement. The bidder allows the following acceptance period: calendar days.

(e) A bid allowing less than the PHA's/IHA's minimum acceptance period will be rejected.

(f) The bidder agrees to execute all that it has undertaken to do, in compliance with its bid, if that bid is accepted in writing within (1) the acceptance period stated in paragraph (c) above or (2) any longer acceptance period stated in paragraph (d) above.

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

The bidder 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 business enterprise. "Women-owned business enterprise," as used in this provision, means a 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 business enterprise. "Minority business enterprise," as used in this provision, means a business which is at least 51 percent owned or controlled by one or more minority group members or, in the case of a publicly owned business, at least 51 percent of its voting stock is owned by one or more minority group members, and whose management and daily operations are controlled by one or more such individuals. For the purpose of this definition, minority group members are:

(Check the block applicable to you)

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

8. Indian-Owned Economic Enterprise and Indian Organization Representation (applicable only if this solicitation is for a contract to be performed on a project for an Indian Housing Authority)

The bidder represents and certifies that it:

(a) [] is, [] is not an Indian-owned economic enterprise. "Economic enterprise," as used in this provision, means any commercial, industrial, or business activity established or organized for the purpose of profit, which is at least 51 percent Indian owned. "Indian," as used in this provision, means any person who is a member of any tribe, band, group, pueblo, or community which is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs and any "Native" as defined in the Alaska Native Claims Settlement Act.

(b) [] is, [] is not an Indian organization. "Indian organization," as used in this provision, means the governing body of any Indian tribe or entity established or recognized by such governing body. Indian "tribe" means any Indian tribe, band, group, pueblo, or

community including Native villages and Native groups (including corporations organized by Kenai, Juneau, Sitka, and Kodiak) as defined in the Alaska Native Claims Settlement Act, which is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs.

9. Certification of Eligibility Under the Davis-Bacon Act (applicable to construction contracts exceeding \$2,000)

(a) By the submission of this bid, the bidder certifies that neither it nor any person or firm who has an interest in the bidder's firm is a person or firm ineligible to be awarded contracts by the United States Government by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(b) No part of the contract resulting from this solicitation shall be subcontracted to any person or firm ineligible to be awarded contracts by the United States Government by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(c) The penalty for making false statements is prescribed in the U. S. Criminal Code, 18 U.S.C. 1001.

10. Certification of Nonsegregated Facilities (applicable to contracts exceeding \$10,000)

(a) The bidder's attention is called to the clause entitled **Equal Employment Opportunity** of the General Conditions of the Contract for Construction.

(b) "Segregated facilities," as used in this provision, means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees, that are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, or national origin because of habit, local custom, or otherwise.

(c) By the submission of this bid, the bidder certifies that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. The bidder agrees that a breach of this certification is a violation of the Equal Employment Opportunity clause in the contract.

(d) The bidder further agrees that (except where it has obtained identical certifications from proposed subcontractors for specific time periods) prior to entering into subcontracts which exceed \$10,000 and are not exempt from the requirements of the Equal Employment Opportunity clause, it will:

(1) Obtain identical certifications from the proposed subcontractors;

(2) Retain the certifications in its files; and

(3) Forward the following notice to the proposed subcontractors (except if the proposed subcontractors have submitted identical certifications for specific time periods):

Notice to Prospective Subcontractors of Requirement for Certifications of Nonsegregated Facilities

A Certification of Nonsegregated Facilities must be submitted before the award of a subcontract exceeding \$10,000 which is not exempt from the provisions of the Equal Employment Opportunity clause of the prime contract. The certification may be submitted either for each subcontract or for all subcontracts during a period (i.e., quarterly, semiannually, or annually).

Note: The penalty for making false statements in bids is prescribed in 18 U.S.C. 1001.

11. Clean Air and Water Certification (applicable to contracts exceeding \$100,000)

The bidder certifies that:

(a) Any facility to be used in the performance of this contract [] is, [] is not listed on the Environmental Protection Agency List of Violating Facilities:

(b) The bidder will immediately notify the PHA/HA Contracting Officer, before award, of the receipt of any communication from the Administrator, or a designee, of the Environmental Protection Agency, indicating that any facility that the bidder proposes to use for the performance of the contract is under consideration to be listed on the EPA List of Violating Facilities; and,

(c) The bidder will include a certification substantially the same as this certification, including this paragraph (c), in every nonexempt subcontract.

12. Previous Participation Certificate (applicable to construction and equipment contracts exceeding \$50,000)

(a) The bidder shall complete and submit with his/her bid the Form HUD-2530, "Previous Participation Certificate." If the successful bidder does not submit the certificate with his/her bid, he/she must submit it within three (3) working days of bid opening. Failure to submit the certificate by that date may render the bid nonresponsive. No contract award will be made without a properly executed certificate.

(b) A fully executed "Previous Participation Certificate" [] is, [] is not included with the bid.

13. Bidder's Signature

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

(Signature and Date)

(Typed or Printed Name)

(Title)

(Company Name)

(Company Address)

General Contract Conditions for Small Construction/Development Contracts

U.S. Department of Housing and Urban
Development
Office of Public and Indian Housing
OMB Approval No. 2577-0157 (exp. 3/31/2020)

Applicability. The following contract clauses are applicable and must be inserted into small construction/development contracts greater than \$2,000 but not more than \$150,000.

1. Definitions

Terms used in this form are the same as defined in form HUD-5370

2. Prohibition Against Liens

The Contractor is prohibited from placing a lien on the PHA's property. This prohibition shall apply to all subcontractors at any tier and all materials suppliers. The only liens on the PHA's property shall be the Declaration of Trust or other liens approved by HUD.

3. Disputes

- (a) Except for disputes arising under the Labor Standards clauses, all disputes arising under or relating to this contract, including any claims for damages for the alleged breach thereof 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 Contracting Officer for a written decision. A claim by the PHA against the Contractor shall be subject to a written decision by the Contracting Officer.
- (c) The Contracting Officer shall, within 30 days after receipt of the request, decide the claim or notify the Contractor of the date by which the decision will be made.
- (d) The Contracting Officer's decision shall be final unless the Contractor (1) appeals in writing to a higher level in the PHA in accordance with the PHA's policy and procedures, (2) refers the appeal to an independent mediator or arbitrator, or (3) files suit in a court of competent jurisdiction. Such appeal must be made within 30 days after receipt of the Contracting Officer's decision.
- (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 or relating to the contract, and comply with any decision of the Contracting Officer.

4. Default

- (a) If the Contractor refuses or fails to prosecute the work, or any separable part thereof, with the diligence that will insure its completion within the time specified in this contract, or any extension thereof, or fails to complete said work within this time, the Contracting Officer may, by written notice to the Contractor, terminate the right to proceed with the work (or separable part of the work) that has been delayed. In the event, the PHA may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, equipment, and plant on the work site necessary for completing the work. The Contractor and its sureties shall be liable for any damage to the PHA resulting from the Contractor's refusal or failure to complete the work within the specified time, whether or not the Contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the PHA in completing the work.

- (b) The Contractor's right to proceed shall not be terminated or the Contractor charged with damages under this clause if--
 - (1) The delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor; and
 - (2) The Contractor, within 10 days from the beginning of such delay notifies the Contracting Officer in writing of the causes of delay. The Contracting Officer shall ascertain the facts and the extent of the delay. If, in the judgment of the Contracting Officer, the findings of fact warrant such action, time for completing the work shall be extended by written modification to the contract. The findings of the Contracting Officer shall be reduced to a written decision which shall be subject to the provisions of the Disputes clause of this contract.
- (c) If, after termination of the Contractor's right to proceed, it is determined that the Contractor was not in default, or that the delay was excusable, the rights and obligation of the parties will be the same as if the termination had been for convenience of the PHA.

5. Termination for Convenience

- (a) The Contracting Officer may terminate this contract in whole, or in part, whenever the Contracting Officer determines that such termination is in the best interest of the PHA. Any such termination shall be effected by delivery to the Contractor of a Notice of Termination specifying the extent to which the performance of the work under the contract is terminated, and the date upon which such termination becomes effective.
- (b) If the performance of the work is terminated, either in whole or in part, the PHA shall be liable to the Contractor for reasonable and proper costs resulting from such termination upon the receipt by the PHA of a properly presented claim setting out in detail: (1) the total cost of the work performed to date of termination less the total amount of contract payments made to the Contractor; (2) the cost (including reasonable profit) of settling and paying claims under subcontracts and material orders for work performed and materials and supplies delivered to the site, payment for which has not been made by the PHA to the Contractor or by the Contractor to the subcontractor or supplier; (3) the cost of preserving and protecting the work already performed until the PHA or assignee takes possession thereof or assumes responsibility therefore; (4) the actual or estimated cost of legal and accounting services reasonably necessary to prepare and present the termination claim to the PHA; and (5) an amount constituting a reasonable profit on the value of the work performed by the Contractor.
- (c) The Contracting Officer will act on the Contractor's claim within days (60 days unless otherwise indicated) of receipt of the Contractor's claim.
- (d) Any disputes with regard to this clause are expressly made subject to the provisions of the Disputes clause of this contract.

6. Insurance

- (a) Before commencing work, the Contractor and each subcontractor shall furnish the PHA with certificates of insurance showing the following insurance is in force and will insure all operations under the Contract:

(1) Workers' Compensation, in accordance with state or Territorial Workers' Compensation laws.

(2) Commercial General Liability with a combined single limit for bodily injury and property damage of not less than \$ _____ [Contracting Officer insert amount] per occurrence to protect the Contractor and each subcontractor against claims for bodily injury or death and damage to the property of others. This shall cover the use of all equipment, hoists, and vehicles on the site(s) not covered by Automobile Liability under (3) below. If the Contractor has a "claims-made" policy, then the following additional requirements apply: the policy must provide a "retroactive date" which must be on or before the execution date of the Contract; and the extended reporting period may not be less than five years following the completion date of the Contract.

(3) Automobile Liability on owned and non-owned motor vehicles used on the site(s) or in connection therewith for a combined single limit for bodily injury and property damage of not less than \$ _____ [Contracting Officer insert amount] per occurrence.

(b) Before commencing work, the Contractor shall furnish the PHA with a certificate of insurance evidencing that Builder's Risk (fire and extended coverage) Insurance on all work in place and/or materials stored at the building site(s), including foundations and building equipment, is in force. The Builder's Risk Insurance shall be for the benefit of the Contractor and the PHA as their interests may appear and each shall be named in the policy or policies as an insured. The Contractor in installing equipment supplied by the PHA shall carry insurance on such equipment from the time the Contractor takes possession thereof until the Contract work is accepted by the PHA. The Builder's Risk Insurance need not be carried on excavations, piers, footings, or foundations until such time as work on the superstructure is started. It need not be carried on landscape work. Policies shall furnish coverage at all times for the full cash value of all completed construction, as well as materials in place and/or stored at the site(s), whether or not partial payment has been made by the PHA. The Contractor may terminate this insurance on buildings as of the date taken over for occupancy by the PHA. The Contractor is not required to carry Builder's Risk Insurance for modernization work which does not involve structural alterations or additions and where the PHA's existing fire and extended coverage policy can be endorsed to include such work.

(c) All insurance shall be carried with companies which are financially responsible and admitted to do business in the State in which the project is located. If any such insurance is due to expire during the construction period, the Contractor (including subcontractors, as applicable) shall not permit the coverage to lapse and shall furnish evidence of coverage to the Contracting Officer. All certificates of insurance, as evidence of coverage, shall provide that no coverage may be canceled or non-renewed by the insurance company until at least 30 days prior written notice has been given to the Contracting Officer.

7. Contract Modifications

- (a) Only the Contracting Officer has authority to modify any term or condition of this contract. Any contract modification shall be authorized in writing.
- (b) The Contracting Officer may modify the contract unilaterally (1) pursuant to a specific authorization stated in a contract clause (e.g., Changes); or (2) for administrative matters which

do not change the rights or responsibilities of the parties (e.g., change in the PHA address). All other contract modifications shall be in the form of supplemental agreements signed by the Contractor and the Contracting Officer.

(c) When a proposed modification requires the approval of HUD prior to its issuance (e.g., a change order that exceeds the PHA's approved threshold), such modification shall not be effective until the required approval is received by the PHA.

8. Changes

(a) The Contracting Officer may, at any time, without notice to the sureties, by written order designated or indicated to be a change order, make changes in the work within the general scope of the contract including changes:

- (1) In the specifications (including drawings and designs);
- (2) In the method or manner of performance of the work;
- (3) PHA-furnished facilities, equipment, materials, services, or site; or,

(4) Directing the acceleration in the performance of the work.

(b) Any other written order or oral order (which, as used in this paragraph (b), includes direction, instruction, interpretation, or determination) from the Contracting Officer that causes a change shall be treated as a change order under this clause; provided, that the Contractor gives the Contracting Officer written notice stating (1) the date, circumstances and source of the order and (2) that the Contractor regards the order as a change order.

(c) Except as provided in this clause, no order, statement or conduct of the Contracting Officer shall be treated as a change under this clause or entitle the Contractor to an equitable adjustment.

(d) If any change under this clause causes an increase or decrease in the Contractor's cost of, or the time required for the performance of any part of the work under this contract, whether or not changed by any such order, the Contracting Officer shall make an equitable adjustment and modify the contract in writing. However, except for an adjustment based on defective specifications, no proposal for any change under paragraph (b) above shall be allowed for any costs incurred more than 20 days (5 days for oral orders) before the Contractor gives written notice as required. In the case of defective specifications for which the PHA is responsible, the equitable adjustment shall include any increased cost reasonably incurred by the Contractor in attempting to comply with the defective specifications.

(e) The Contractor must assert its right to an adjustment under this clause within 30 days after (1) receipt of a written change order under paragraph (a) of this clause, or (2) the furnishing of a written notice under paragraph (b) of this clause, by submitting a written statement describing the general nature and the amount of the proposal. If the facts justify it, the Contracting Officer may extend the period for submission. The proposal may be included in the notice required under paragraph (b) above. No proposal by the Contractor for an equitable adjustment shall be allowed if asserted after final payment under this contract.

(f) The Contractor's written proposal for equitable adjustment shall be submitted in the form of a lump sum proposal supported with an itemized breakdown of all increases and decreases in the contract in at least the following details:

- (1) Direct Costs. Materials (list individual items, the quantity and unit cost of each, and the aggregate cost); Transportation and delivery costs associated with materials; Labor

breakdowns by hours or unit costs (identified with specific work to be performed); Construction equipment exclusively necessary for the change; Costs of preparation and/or revision to shop drawings resulting from the change; Worker's Compensation and Public Liability Insurance; Employment taxes under FICA and FUTA; and, Bond Costs - when size of change warrants revision.

- (2) Indirect Costs. Indirect costs may include overhead, general and administrative expenses, and fringe benefits not normally treated as direct costs.
- (3) Profit. The amount of profit shall be negotiated and may vary according to the nature, extent, and complexity of the work required by the change.

The allowability of the direct and indirect costs shall be determined in accordance with the Contract Cost Principles and Procedures for Commercial Firms in Part 31 of the Federal Acquisition Regulation (48 CFR 1-31), as implemented by HUD Handbook 2210.18, in effect on the date of this contract. The Contractor shall not be allowed a profit on the profit received by any subcontractor. Equitable adjustments for deleted work shall include a credit for profit and may include a credit for indirect costs. On proposals covering both increases and decreases in the amount of the contract, the application of indirect costs and profit shall be on the net-change in direct costs for the Contractor or subcontractor performing the work.

- (g) The Contractor shall include in the proposal its request for time extension (if any), and shall include sufficient information and dates to demonstrate whether and to what extent the change will delay the completion of the contract in its entirety.
- (h) The Contracting Officer shall act on proposals within 30 days after their receipt, or notify the Contractor of the date when such action will be taken.
- (i) Failure to reach an agreement on any proposal shall be a dispute under the clause entitled Disputes herein. Nothing in this clause, however, shall excuse the Contractor from proceeding with the contract as changed.
- (j) Except in an emergency endangering life or property, no change shall be made by the Contractor without a prior order from the Contracting Officer.

9. Examination and Retention of Contractor's Records

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

10. Rights in Data and Patent Rights (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.

11. 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.

12. 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.

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

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

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

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

14. Labor Standards - Davis-Bacon and Related Acts

(a) Minimum Wages.

(1) All laborers and mechanics employed under this contract in the construction or development of the project(s) involved will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the regular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits in the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein; provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conforming under 29 CFR 5.5(a)(1)(i) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Contractor and its subcontractors at the site of the work in

a prominent and accessible place where it can be easily seen by the workers.

- (2) (i) Any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits therefor only when all the following criteria have been met:
- (a) The work to be performed by the classification requested is not performed by a classification in the wage determination; and
 - (b) The classification is utilized in the area by the construction industry; and
 - (c) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.
- (ii) If the Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, Employee Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary.
- (iii) In the event the Contractor, the laborers or mechanics to be employed in the classification or their representatives, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator of the Wage and Hour Division for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary.
- (iv) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (a)(2)(ii) or (iii) of this clause shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.
- (3) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the Contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.
- (4) If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part

of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program; *provided*, that the Secretary of Labor has found, upon the written request of the Contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

- (b) **Withholding of Funds.** HUD or its designee shall, upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the Contractor under this contract or any other Federal contract with the same prime Contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime Contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the Contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working in the construction or development of the project, all or part of the wages required by the contract, HUD or its designee may, after written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the Contractor, disburse such amounts withheld for and on account of the Contractor or subcontractor to the respective employees to whom they are due.
- (c) **Payrolls and Basic Records.**
- (1) Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working in the construction or development of the project. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made, and actual wages paid. Whenever the Secretary of Labor has found, under 29 CFR 5.5(n)(1)(iv), that the wages of any laborer or mechanic include the amount of costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.
- (2) (i) The Contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Contracting Officer for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under subparagraph (c)(1) of this clause. This information may be submitted in any form desired. Optional Form WH-347 (Federal Stock Number 029-005-00014-1) is available for this purpose and may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The prime Contractor is responsible for the submission of copies of payrolls for all subcontractors. (Approved by the Office of Management and Budget under OMB Control Number 1214-0149.)
- (ii) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:
- (A) That the payroll for the payroll period contains the information required to be maintained under paragraph (c)(1) of this clause and that such information is correct and complete;
- (B) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR Part 3; and
- (C) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.
- (iii) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirements for submission of the "Statement of Compliance" required by subparagraph (c)(2)(ii) of this clause.
- (iv) The falsification of any of the above certifications may subject the Contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 3729 of Title 31 of the United States Code.
- (3) The Contractor or subcontractor shall make the records required under subparagraph (c)(1) available for inspection, copying, or transcription by authorized representatives of HUD or its designee, the Contracting Officer, or the Department of Labor and shall permit such representatives to interview employees during working hours on the job. If the Contractor or subcontractor fails to submit the required records or to make them available, HUD or its designee may, after written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

- (d) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S.

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

The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the Contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated in this paragraph, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator of the Wage and Hour Division determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event OATELS, or a State Apprenticeship Agency recognized by OATELS, withdraws approval of an apprenticeship program, the Contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

- (e) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate

specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed in the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate in the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate in the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate in the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

- (f) Equal Employment Opportunity. The utilization of apprentices, trainees, and journeymen under this clause shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.
- (g) Compliance with Copeland Act Requirements. The Contractor shall comply with the requirements of 29 CFR Part 3, which are hereby incorporated by reference in this contract.
- (h) Contract Termination; Debarment. A breach of the labor standards clauses in this contract may be grounds for termination of the contract and for debarment as a Contractor and a subcontractor as provided in 29 CFR 5.12.
- (i) Compliance with Davis-Bacon and related Act Requirements. All rulings and interpretations of the Davis-Bacon and related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract.
- (j) Disputes Concerning Labor Standards. Disputes arising out of the labor standards provisions of this clause shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the Contractor (or any of its subcontractors) and the PHA, HUD, the U.S. Department of Labor, or the employees or their representatives.
- (k) Certification of Eligibility.
- (1) By entering into this contract, the Contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the Contractor's firm is a person or firm ineligible to be awarded contracts by the United States Government by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
 - (2) No part of this contract shall be subcontracted to any person or firm ineligible for award of a United States Government

contract by virtue of section 3(n) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(3) The penalty for making false statements is prescribed in the U. S. Criminal Code, 18 U.S.C. 1001.

(l) Subcontracts. The Contractor or subcontractor shall insert in any subcontracts all the provisions contained in this clause, and such other clauses as HUD or its designee may by appropriate instructions require, and also a clause requiring the subcontractors to include these provisions in any lower tier subcontracts. The prime Contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all these provisions.

(m) Non-Federal Prevailing Wage Rates. Any prevailing wage rate (including basic hourly rate and any fringe benefits), determined under State law to be prevailing, with respect to any employee in any trade or position employed under the contract, is inapplicable to the contract and shall not be enforced against the Contractor or any subcontractor, with respect to employees engaged under the contract whenever such non-Federal prevailing wage rate exceeds:

- (i) the applicable wage rate determined by the Secretary of Labor pursuant to the Davis-Bacon Act (40 U.S.C. 3141 et seq.) to be prevailing in the locality with respect to such trade;
- (ii) an applicable apprentice wage rate based thereon specified in an apprenticeship program registered with the U.S. Department of Labor (DOL) or a DOL-recognized State Apprenticeship Agency; or
- (iii) an applicable trainee wage rate based thereon specified in a DOL-certified trainee program.

NON COLLUSION AFFIDAVIT

State of Tennessee
County of _____

I, _____, being duly sworn, depose and say:

That I am the _____ (title) of the firm of _____, the party making the foregoing proposal; and

That such proposal is genuine and not collusive or a sham; and

That said Offeror has not colluded, conspired or agreed, directly or indirectly with any other offeror or person, to put in a sham offer or to refrain from offering, and has not in any manner, directly or indirectly, sought by agreement or collusion, or communication or conference, with any person to fix the offer price or affiant or any other offeror, or to fix any overhead, profit or cost element of said offer price, or that of any other offeror, or to secure any advantage against the Memphis Housing Authority or any person interested in the proposed contracts; and

That all statements in said proposal are true.

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

Notary Signature

My commission expires

Date

Company Name

Principal

Title

Date

DEBARMENT AND SUSPENSION CERTIFICATION

By signing and submitting a proposal in response to the solicitation of the Memphis Housing Authority, the Respondent certifies to the best of its knowledge and belief that:

- Neither the Respondent nor any of its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transaction by any Federal Department or agency;
- Neither the Respondent nor any of its principals have been convicted of or had a civil judgment rendered against them for commission of fraud or criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction; violation of Federal or State Antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- Neither the Respondent nor any of its principals are presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in the foregoing paragraph of this certification;
- Neither the Respondent nor any of its principals have had one or more public transactions (Federal, State or local) terminated for cause or default; and
- Neither the Respondent nor any of its principals are currently engaged in litigation against the Memphis Housing Authority.

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

Notary Signature

My commission expires

Date

Company Name

Principal

Title

Date

EQUAL OPPORTUNITY CERTIFICATION

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

- A. The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that such applicants are recruited or employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
- B. The contractor or subcontractor, where applicable, will in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
- C. The contractor or subcontractor, where applicable, will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or worker's representative of the contractor's commitment under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- D. The contractor or subcontractor, where applicable, shall comply with Executive Order 11246, as amended, and the rules, regulations, and orders of the Secretary of Labor.

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

Notary Signature

My commission expires

Date

Company Name

Principal

Title

Date

DRUG-FREE WORKPLACE CERTIFICATION

DRUG FREE WORKPLACE ACT OF 1988

41 U.S.C. 701 et seq.

54 FED REG 4946, et seq.

The undersign hereby certifies that he/she will provide a drug-free workplace by publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use will be taken against employees for violations of such prohibitions.

1. Establishing a drug-free awareness program to inform employees about:
 - a) The dangers of drug abuse in the workplace
 - b) The proposed policy of maintaining a drug-free workplace
 - c) Any available drug counseling, rehabilitation, and employee assistance program, and
 - d) The penalties that may be imposed upon employees for violations occurring in the workplace.
2. Making a requirement that each employee to be engaged in the performance of the contract be given a copy of the statement required by paragraph (1).
3. Notifying the employee required by paragraph (1) that, as a condition of employment under the contract, the employee will:
 - a) Abide by the terms of the statement; and
 - b) Notify the contractor of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction.
4. Notify the Memphis Housing Authority (MHA) within ten (10) days after receiving notice under Subparagraph 3(b) from an employee or otherwise receiving actual notice of such conviction.
5. Taking one of the following actions within thirty (30) days after receiving notice under Subparagraph 3(b) with respect to any employee who is convicted:
 - a) Taking appropriate personnel action against such employee, up to and including termination, or
 - b) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement, or appropriate agency.
6. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (1), (2), (3), (4), and (5).

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

Notary Signature

My commission expires

Date

Company Name

Principal

Title

Date

SECTION 3 BUSINESS CONCERN SELF-CERTIFICATION

The Offeror/Bidder represents and certifies that it:

is not a Section 3 business.

is a Section 3 business as indicated below [check applicable category and subcategory]:

Category 1 Business

Fifty-one (51%) or more owned by residents of the specific community or communities for which the Section 3 covered assistance is expended; or

Full-time, permanent workforce includes thirty percent (30%) of the above residents as employees.

Category 2 Business

Fifty-one (51%) or more owned by residents of other communities managed by the Memphis Housing Authority that is expending the Section 3 covered assistance; or

Full-time, permanent workforce includes thirty percent (30%) of the above residents as employees.

Category 3 Business

An entity selected to carry out a HUD Youthbuild Program in the metropolitan area, or non-metropolitan county, in which the Section 3 covered assistance is expended.

Category 4 Business

Fifty-one (51%) or more owned by Section 3 residents; or

Full-time, permanent workforce includes no less thirty percent (30%) Section 3 residents; or

Will subcontract in excess of the twenty-five percent (25%) of the total amount of subcontracts to business concerns identified above.

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

Notary

My commission expires

Date

Company Name

Principal

Title

Date

SECTION 3 ACTION PLAN OUTLINE

Provide a Section 3 Action Plan using the below outline:

- I. Overview
 - A. Description of the project's work detail
 - B. Proposed positions for new hires (including job description, if available)
- II. Description of how your company will advertise available positions.
- III. Implementation Schedule
 - A. Provide an overview of the activities involved in executing this plan
- IV. Description of the type of technical assistance your company will require from the Memphis Housing Authority in order to effectively implement your Section 3 Plan.
- V. Description of any creative or innovative ideas your company would like to implement in order to fulfill your Section 3 compliance obligations.
- VI. Overview of training opportunities to be provided by your company for public housing residents as an option for meeting your Section 3 requirements, if applicable.