



Request for Proposals  
**Utility Allowance Study**

Solicitation #01222024-03

**ISSUE DATE**

July 15, 2024

**\*ALL PROPOSALS ARE DUE NO LATER THAN July 31, 2024 AT 4:00 PM.**

Small, Minority, and Women-Owned Businesses are encouraged to apply. HACG complies with Section 3 of the HUD Act of 1968.

**Table of Contents**

- i. **ATTACHMENTS**..... 2
- ii. **PURPOSE**..... 2
- iii. **TIMELINE**..... 2
- iv. **SCOPE OF WORK**..... 2
- vi. **PROPOSAL FORMAT/DUE DATE** ..... 7
- vii. **EVALUATION CRITERIA**..... 8
- viii. **AGENCY RIGHTS** ..... 8
- ix. **RFP REQUIREMENTS AND CONDITIONS** ..... 9
- x. **SIGNATURE PAGE**..... 11

- i. **ATTACHMENTS**

- a. HUD Form 5369
- b. HUD Form 5369B
- c. HUD Form 5370C
- d. E-Verify Affidavit
- e. Non-Collusive Form
- f. Section 3 Business Preference Documentation

- ii. **PURPOSE**

The Housing Authority of the City of Goldsboro (hereinafter, “HACG” or “Agency”) is issuing a Request for Proposals (hereinafter, “RFP”) for a Utility Allowance Study agency-wide in Goldsboro, N.C. 27530 in accordance with the U.S. Department of Housing and Urban Development (hereinafter, “HUD”) requirements from experienced consultant firm (hereinafter, “bidders”). It is the desire of the agency to issue an initial contract for a three-year period with options to renew for two additional one-year periods.

- iii. **TIMELINE**

The estimated timeline for this RFP is listed below. Dates, except for the submission deadline, are estimates and may change based on the responsiveness of bidders and other procurement needs.

- a. Issue Date: July 15, 2024
- b. Deadline for Submission: July 30, 2024 (4:00 PM EST)
- c. Anticipated Award Announcement: August 1, 2024

- iv. **SCOPE OF WORK**

- a. **Background.** The Housing Authority of the City of Goldsboro (HACG) is accepting competitive proposals for an experienced consulting firm to conduct a utility allowance study for its low-rent public housing units. The HACG owns and manages over 1225 units and administrative buildings located at 10 different housing development sites within the city limits of Goldsboro, NC. The consultant would determine the appropriate utility allowance and update the utility allowance schedules in accordance with HUD regulations at 24 CFR 982.517.

**b. Basic Requirements.** At a minimum, the successful bidder must provide:

1. Determine the appropriate utility allowances for the low-rent Public Housing Program in accordance with 24 CFR Part 982.517; HUD Occupancy Guidebook; and all applicable federal, state, and local laws and regulations.
2. Utility allowances shall be based upon reasonable consumption of utilities by an energy conservative household of modest circumstances consistency with the requirements of a safe, sanitary, and healthful living environment.
3. Provide PHA Utility Allowance for all properties and bedroom sizes in our portfolio.
4. Provide a narrative explaining the data collection, consumption rates used, compilation, and documentation used to reach the submitted allowance schedule.
5. If requested, be able to provide to the PHA all supporting documentation used in determining the utility allowances, including but not limited to letters from the utility companies, calculations used, quantities that support the basis of the dollar.

**c. Site Characteristics.**

Development Name	Bedroom Types	Utilities		
		Electric	Gas	Water/Sewer
<b>Public Housing Units</b>		<b>Agency paid Utilities</b>		
AMP 1				
Fairview	0 Thru 4	Y	Y	Y
Fairview Elderly	0 Thru 1	Y	Y	Y
Trinity Court	2	N	N	N
Oleander Duplex	2	N	N	N
Park Court	2	N	N	N
AMP 2				
Lincoln (Renovated)	1 Thru 4	Y	Y	Y
Lincoln (Renovated 2015)	1 Thru 4	Y	Y	Y
Lincoln (Non Renovated)	1 Thru 4	Y	Y	Y
Walnut Street School	1 and 2	Y	Y	Y
AMP 3				
Elmwood Terrace	1 Thru 5	N	Y	Y
Elmwood Charles Street Duplexes	3	N	Y	Y
Elmwood Charles Street Houses	3	N	Y	Y
Little Washington	3 Thru 4	N	N	N
Woodcrest	2 Thru 5	N	Y	Y
AMP 4				
West Haven	0 Thru 5	Y	Y	Y
West Haven Elderly	0 Thu 1	Y	Y	Y

**1. Fairview**

Range – Electric  
Water Heater – Electric  
Heating – Gas space heaters – pilot lights – 1&2 Bedroom  
Gas Central – 3 & 4 Bedroom  
Average 15 years  
Cooling – Fans  
Attic – R-20 replaced 1984  
Walls – brick – 1 1/2” air space – 4” concrete block 5/8” plaster  
Floors – non-insulated  
Windows – Thermopane good condition – new in 1984  
Doors – Steel insulated  
Plumbing – 50% of the toilets are conservation type; all other conservation type.  
Lighting – 70% fluorescent; 30% incandescent  
Construction date 1952  
\*Undergoing renovations starting August)

**2. Trinity Court**

Range – Electric  
Water Heater – Electric (standard efficiency, new 2019)  
Heat – Heat Pump (14 SEER, 7.7 HSPF, new 2019)  
Cooling – Fans  
Dryer – Electric, allowance given as there are no clothes lines  
Refrigerator – Energy Star  
Attic – R-39 (new 2019)  
Walls – brick/siding with no insulation. In the 2019 renovation portions of buildings B, C, and D had R-15 insulation installed.  
Floors – Crawl space with R-19 insulation (new 2019)  
Windows – Existing, mix of single and double pane  
Doors – Wood Doors (new in 2019), ¼ lite front doors and ½ lite rear doors  
Plumbing – Water sense compliant fixtures (new 2019)  
Lighting – all fluorescent  
Construction date – Built in 1955 and renovated in 2019

**3. Oleander Duplex**

Range – Electric  
Water Heater – Electric  
Heat – Central natural gas furnace (80% AFUE, new circa 2000)  
Cooling – Fans  
Dryer – Electric, allowance given as there are no clothes lines  
Attic – 6” brown insulation  
Walls – Brick/siding and 3 1/2 ” batt insulation  
Floors – Insulated  
Windows – Storm  
Doors – Wood door with a storm door  
Plumbing – Conservation type  
Lighting – LED  
Construction Date – Prior to 1988

**4. Park Court**

LEED Certified GOLD property  
Range – Electric Model #JBS60RK.  
Water Heater – Electric  
Lighting – LED  
Energy Star Appliances  
Construction Date – Renovated 2022

**5. Lincoln (Renovated)**

Range – Natural gas (new in 2009)

Water Heater – Natural gas (new in 2009) – Standard Efficiency  
 Heating – Central Natural Gas Furnace (80% AFUE, new in 2009)  
 Cooling – Fans (New central a/c installed in 2009)  
 Attic – R-30  
 Walls – brick 1 ½” air space - 4” concrete block 5/8” plaster – 1 1/2 “ foam board (R9), new in 2009)  
 Floors – Non-insulated  
 Windows – Thermopane good condition – new 1984 (new weather stripping 2009)  
 Doors – Steel insulated (new weather stripping 2009)  
 Lighting – Compact Fluorescent in all fixtures  
 Construction Date - 1952

**6. Lincoln (Renovated 2015)**

Range – Electric  
 Water Heater – Natural gas (new in 2015) – Standard Efficiency  
 Heating – Central natural gas furnace (80% AFUE, new in 2015, spark ignition)  
 Cooling – Fans (new central A/C installed in 2015)  
 Attic – R38 (new in 2015); more vents added in 2015  
 Walls -Brick – 1 ½” airspace – 4” concrete block 5/8” plaster -1 ½” foam board (R9), New in 2015  
 Floors – Non-insulated  
 Windows - Thermopane good condition – new in 1984 (new weather stripping 2015)  
 Doors – Steel insulated (new weather stripping 2015)  
 Plumbing – New fixtures installed 2015  
 Lighting – Compact Fluorescent in all fixtures  
 All appliances are Energy Star  
 Construction Date – 1952

**7. Walnut Street School**

Range – Electric  
 Water Heater – Electric (some replaced in 2019)  
 Heat – Heat Pump (15 SEER, 9.0 HSPF, unit replaced in 2019)  
 Cooling – Fans  
 Dryer – There are no washer or dryer connections in the apartment  
 Refrigerator – Energy Star (new 2019)  
 Construction Characteristics

	Building A	Building B
Stories	2	3
Attic	Assumed R-13	Assumed R-13
Walls	1-foot solid masonry wall	Brick/Panel veneer over R-19 stud walls
Floors	Assumed R-13	Slab with no insulation
Windows	60% are double pane	60% are double pane
Doors	not pertinent, all apartments open to a conditioned hall	
Plumbing	conservation type	
Lighting	fluorescent or CFL	
Renovation date	–2019	

**8. Elmwood Terrace**

Range – Gas  
 Water Heater – Electric (new in 2023/2024)  
 Cooling Fans – Central A/C 14 SEER (new 2023/2024)  
 Attic – R-24 - installed 2001  
 Walls – brick – 1 ½” air space – 4” concrete block 5/8” plaster  
 Floors – No insulation  
 Windows – Thermopane good condition – installed 1984  
 Doors – Front – metal insulated

Back – heavy wood  
Fluorescent fixtures in all rooms  
Plumbing – water conservation type toilets and new fixtures  
Construction Date – 1962

**9. Charles Street Duplexes**

Range – Electric  
Water heater – Electric  
Heating – Central 13 SEER  
Cooling – Fans  
Attic – R-30  
Walls – R-15  
Floors – Insulated  
Windows – Double pane glass  
Doors – Metal insulated  
Lighting - Fluorescent fixtures in all rooms  
Plumbing – Water conservation type toilets and new fixtures  
Construction Date – 2003

**10. Charles Street Houses**

Range – gas (spark ignition) installed in 2003  
Water heater and hydronic furnace with central system installed in 2003  
Cooling – Fans  
Attic – R30  
Walls – R15  
Floors – Insulated  
Windows – Double pane glass  
Doors – Metal insulated  
Fluorescent fixtures in all rooms  
Plumbing – water conservation type toilets and new fixtures  
Construction Date - 2003

**11. Little Washington**

Range – gas  
Water Heater – gas  
Heat – Central natural gas furnace (80% AFUE, New in 2009)  
Cooling – Fans  
Attic – R-32 (New in 2009)  
Walls – 50% siding, 50% brick, 3 ½” insulated sheet rock  
Floors – insulated  
Windows – Thermopane – installed 2000  
Doors – Front doors are wood; rear doors are metal insulated  
Plumbing – 50% of the toilets are conservation type; all other fixtures are conservation type  
Lighting – 70% fluorescent; 30% incandescent  
Construction date – 1978

**12. Woodcrest**

Range – Electric  
Hot Water Tank – Electric  
Heat – Heat pump with central system, average SEER 12  
Plumbing – Water conservation toilets and new fixtures  
Ceiling - Fans  
Ceiling – R-24 Blown insulation  
Walls – 4” brick, air space and 4” concrete block 5/8” plaster – no insulation  
Windows – Thermopane – good condition  
Doors – metal insulation with screened doors – good condition  
Floor – perimeter not insulated  
Conservation type toilets

Fluorescent lighting in all rooms  
Construction date 1962  
Renovation around 1998 for appliances, heat pumps and toilets

13. **West Haven**

Range – gas  
Water Heater – gas, new 2010  
Heat – 13 SEER Heat Pump with Gas Furnace that activates at 40°F (new in 2010)  
Cooling – Fans  
Attic – R-19 - Add insulation around 1984  
Walls – Vinyl siding – ½” insulated – 3 ½” insulated sheet rock  
Floors – insulated  
Windows – Thermopane – installed 2000  
Doors – Front doors are metal insulated; rear doors are wood  
Plumbing – 50% conservation type toilets; all other fixtures are water conservation type  
Lighting – 70% fluorescent; 30% incandescent  
Construction Date – 1974

14. **Fairview and West Haven Elderly**

Range – electric  
Water Heater – electric  
Heat –Heat Pumps – 13 SEER (New in 2011)  
Cooling fans  
Construction Characteristics  
Ceiling – R – 19  
Walls – stub with R – 11  
Floors – insulated  
Windows – Thermopane  
Doors – metal insulated  
Plumbing - Conservation type  
Lighting – 70% fluorescent  
Construction Date – 1974 (approx.)

v. **GENERAL SPECIFICATIONS.** The following general specifications apply to any Contractor selected to do the work in this RFP.

1. It is the responsibility of the bidder to review the RFP in detail and set prices accordingly. Changes orders will not be issued due to bidder's lack of attention to details.
2. The bidder will supply all labor, tools, equipment, materials, water, light, heat, air conditioner, power, transportation, and supervision necessary for the satisfactory performance of the work subject to this RFP.
3. The Contractor shall carry all applicable insurances (i.e.: General Commercial Liability, Workers' Compensation Liability, Automobile Liability).
4. The Contractor shall abide by the HACG policies while on-premises, including the Smoke-Free Policy.
5. The proposed fee should be a flat rate that is all-inclusive of any related costs that the Contractor will incur in the execution of the contract agreement by task. Respondents should provide a flat rate per bedroom size and per building. .
1. All costs incurred, directly or indirectly by the Bidder including travel, preparation, submission and miscellaneous expenses in response to this RFP are the sole responsibility of the Bidder and, as such, shall be borne solely by the Bidder.

vi. **PROPOSAL FORMAT/DUE DATE**

a. **Contact Information.** This RFP is being issued by the HACG. The Agency Contact Person for this RFP is:

Jessica Goldman  
 700 N. Jefferson Ave.  
 Goldsboro, NC 27530  
 919-735-4226 EXT 1117  
[jgoldman@hacg.org](mailto:jgoldman@hacg.org)

**b. RFP Submission and Format.** Proposals are to be emailed in Word or PDF to [jgoldman@hacg.org](mailto:jgoldman@hacg.org). **Proposals received after 4:00 p.m. Eastern Time on July 30, 2024, will not be considered.** The Housing Authority reserves the right to reject any or all proposals. The Housing Authority is an equal opportunity employer and contracting agency.

**c. Complete Submission.** Any individual or organization interested in being considered for award must submit a bid proposal in response to this RFP in accordance with the instructions and terms hereunder. By submitting a response, the Respondent agrees to be bound by all terms and conditions of this RFP. Respondents are expected to examine **ALL** elements of the RFP prior to preparing their response. Failure to do so will be at the Respondent's risk. Offers for services other than those specified may not be considered. At a minimum, the Respondent shall include the following:

1. Identification of the company or individual(s) including name, address, telephone number, fax number, and email address;
2. Name, title, address and telephone number of contact person during the period of the evaluation process;
3. An overview of your entity or organization, describing your professional experience and credentials relevant to the services requested.
4. Previous experiences on similar projects.
5. Attachments listed on page 2 of this RFP
6. Insurance Requirements;
7. Business Certifications, if any;
8. List of three (3) references.

**vii. EVALUATION CRITERIA**

Proposals will be evaluated based on your relevant response to this rfp and professional and technical competence, previous experience on similar projects, cost, and M/w/dbe status or other affirmative action efforts. The PHA reserves the right to award a contract for this services without negotiations. Interviews of the proposers may be conducted, and additional information clarifying the components of the proposal may be requested from any proposer.

The PHA Evaluation Committee will use the following criteria to determine the successful consultant.

POINT VALUE	CRITERIA
35	Relevant response to the RFP & professional and technical competence
35	Previous Experience on similar projects
25	Cost
5	MWDBE status or other affirmative action efforts.
100	Total Points

**viii. AGENCY RIGHTS**

The Agency reserves the right to:

**a. Right to Reject, Waive, or Terminate the RFP.** 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 Agency to be in its best interests.

**b. Right to Not Award.** Not to award a contract pursuant to this RFP.

**c. Right to Terminate.** Terminate a contract awarded pursuant to this RFP, at any time for its convenience upon 10 days written notice to the successful proposer.

**d. Right to Determine Time and Location.** Determine the days, hours and locations that the Contractor shall provide the services called for in this RFP.

**e. Right to Retain Proposals.** Retain all proposals submitted and not permit withdrawal for a period of 60 days subsequent to the deadline for receiving proposals without the written consent of the Agency Contact Person.

**f. Right to Negotiate.** HACG shall retain the right to negotiate the amount of fees that are paid to the successful Respondent, meaning the fees proposed by the apparent successful proposal may be the basis for the beginning of negotiations.

**g. Right to Award.** To make an award to the same bidder (aggregate) for all items; to make an award to multiple bidders (including joint venture proposals) for the same or different items; to select a respondent(s) for specific purposes or for any combination of specific purposes; or, to defer the selection and award of any respondent(s) to a time of the HACG's choosing.

**h. Right to Reject any Proposal.** Reject and not consider any proposal that does not, in the opinion of HACG, meet the requirements of this RFP, including but not necessarily limited to incomplete proposals and/or proposals offering alternate or non-requested services.

**i. No Obligation to Compensate.** Have no obligation to compensate any proposer for any costs incurred in responding to this RFP.

**j. Right to Interview.** Request an oral interview with, and additional information from, companies prior to final selection of a provider. (NOTE-If an oral interview is requested, respondent will be given at least three (3) business days' notice, along with the date, time and place for the interviews. Expenses will be the responsibility of the respondent.)

**k. Right to Consider.** Consider information about a company in addition to the information submitted in the response or interview.

**l. Right to Prohibit.** 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 is agreeing to abide by all terms and conditions listed within this document, and further agrees that he/she will inform the Agency Contact Person in writing within 5 days of the discovery of any item listed herein or of any item that is issued thereafter by the Agency that he/she feels needs to be addressed. Failure to abide by this time frame shall relieve the Agency, but not the prospective proposer, of any responsibility pertaining to such issue.

**ix. RFP REQUIREMENTS AND CONDITIONS**

**a. Minimum Requirements.** This RFP sets forth the minimum requirements that all submissions shall meet. Failure to submit proposals in accordance with this request may render the proposal unacceptable.

**b. Cost of the Proposal.** All costs incurred, directly or indirectly, by the Respondent in response to and in preparation of this RFP shall be the sole responsibility of the Respondent and shall be borne by the Respondent. Proposers shall not include any such expenses as part of their proposals.

**c. Clarification to Proposals.** The HACG reserves the right to obtain clarifications of any point in a company's proposal or to obtain additional information necessary to properly evaluate a particular proposal. Failure of a proposer to respond to such a request for additional information or clarification could result in rejection of the company's response or responses. HACG may conduct interviews with one or more agencies for such purposes.

**d. Cancellation of the RFP.** The HACG reserves the right to cancel this RFP at any time, for any reason, and without liability if cancellation is deemed to be in the best interest of the HACG. The proposer assumes the sole risk and responsibility for all expenses connected with the preparation of its proposal.

**e. Collusion.** Proposer, by submitting a proposal, hereby certifies that no officer, agent, or employee of the HACG has a pecuniary interest in this Proposal; that the Proposal is made in good faith without fraud, collusion, or connection of any kind with any other proposer; and that the proposer is competing solely in its own behalf without connection with, or obligation to any undisclosed person or company.

**f. Insurance Requirements**

1. All contractors and/or professional firms must submit verification of coverage for \$1,000,000 General Liability and applicable Workmen's Compensation coverage with HACG designated as loss payee for said project prior to the award of Contract.

2. **Proof of Insurance**, shall not be terminated or expire without thirty (30) days written notice, and are required to be maintained in force until completion of the contract. The Contractor shall require all subcontractors or sub consultants used in the performance of this contract to name HACG as an additional insured. Following are the standard types and minimum amounts.

3. The contractor shall carry all necessary, and required Insurances, as required by the state of North Carolina, including but not limited to:

i. Commercial General Liability, with a single occurrence limit of not less than \$1,000,000 per occurrence.

ii. Commercial Automobile Liability, with a single occurrence limit of not less than \$750,000, in accordance with North Carolina Financial Responsibility laws.

iii. Worker's Compensation Insurance, in accordance with North Carolina Workers' Compensation laws.

4. Failure to provide proof of insurance or failure to maintain insurance as required in this bid, or by law; are grounds for immediate termination of the contract. In addition, the awarded bidder should be liable for all re-procurement costs and any other remedies under law. The Contractor shall provide a certification of Liability Insurance and Workers Compensation.

**g. Indemnification.** The Contractor agrees to indemnify, defend and hold harmless HACG and its authorized officers, employees, agents and volunteers from any and all claims, actions, losses, damages, and/or liability arising out of this RFP or subsequent contract from any cause whatsoever, including the acts, errors or omissions of any person and for any costs or expenses incurred by HACG on account of any claim therefore, except where such indemnification is prohibited by law.

**h. Suspension/Debarment.** The Contractor shall provide a certification statement that the firm is not debarred, suspended, or otherwise prohibited from professional practice by any Federal, State, or Local agency.

**i. Americans with Disabilities Act.** Proposer must comply with all applicable requirements of

federal and state civil rights law and rehabilitation statutes.

**j. Choice of Law.** The resulting contract will be entered into within the State of North Carolina and the law of said state, whether substantive or procedural, shall apply to the contract, and all statutory, charter and ordinance provisions that is applicable to public contracts within Wayne County and the state of North Carolina shall be followed with respect to the contract.

**k. Award of Contract.** The HACG intends to retain the successful bidder pursuant to the lowest responsible and responsive bidder.

**l. Payment of contractor/consultant fees.** Upon award and execution of contract, the successful respondent shall submit a invoice to HACG and payment shall be made to the contractor in accordance with the policies and procedures of the Agency.

**x. SIGNATURE PAGE**

The undersigned certifies he/she has read, understands, and agrees to all terms, conditions, and requirements of this proposal, and is authorized to contract on behalf of the firm named below.

**Company Name** \_\_\_\_\_

**Address** \_\_\_\_\_

**Federal Tax ID** \_\_\_\_\_

**Print Name** \_\_\_\_\_

**Signature** \_\_\_\_\_

**Date** \_\_\_\_\_

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

**Instructions to Bidders for Contracts  
Public and Indian Housing Programs**

# Instructions to Bidders for Contracts

## Public and Indian Housing Programs

### Table of Contents

Clause	Page
1. Bid Preparation and Submission	1
2. Explanations and Interpretations to Prospective Bidders	1
3. Amendments to Invitations for Bids	1
4. Responsibility of Prospective Contractor	1
5. Late Submissions, Modifications, and Withdrawal of Bids	1
6. Bid Opening	2
7. Service of Protest	2
8. Contract Award	2
9. Bid Guarantee	3
10. Assurance of Completion	3
11. Preconstruction Conference	3
12. Indian Preference Requirements	3

### 1. Bid Preparation and Submission

(a) Bidders are expected to examine the specifications, drawings, all instructions, and, if applicable, the construction site (see also the contract clause entitled **Site Investigation and Conditions Affecting the Work** of the *General Conditions of the Contract for Construction*). Failure to do so will be at the bidders' risk.

(b) All bids must be submitted on the forms provided by the Public Housing Agency/Indian Housing Authority (PHA/IHA). Bidders shall furnish all the information required by the solicitation. Bids must be signed and the bidder's name typed or printed on the bid sheet and each continuation sheet which requires the entry of information by the bidder. Erasures or other changes must be initialed by the person signing the bid. Bids signed by an agent shall be accompanied by evidence of that agent's authority. (Bidders should retain a copy of their bid for their records.)

(c) Bidders must submit as part of their bid a completed form HUD-5369-A, "Representations, Certifications, and Other Statements of Bidders."

(d) All bid documents shall be sealed in an envelope which shall be clearly marked with the words "Bid Documents," the Invitation for Bids (IFB) number, any project or other identifying number, the bidder's name, and the date and time for receipt of bids.

(e) If this solicitation requires bidding on all items, failure to do so will disqualify the bid. If bidding on all items is not required, bidders should insert the words "No Bid" in the space provided for any item on which no price is submitted.

(f) Unless expressly authorized elsewhere in this solicitation, alternate bids will not be considered.

(g) Unless expressly authorized elsewhere in this solicitation, bids submitted by telegraph or facsimile (fax) machines will not be considered.

(h) If the proposed contract is for a Mutual Help project (as described in 24 CFR Part 905, Subpart E) that involves Mutual Help contributions of work, material, or equipment, supplemental information regarding the bid advertisement is provided as an attachment to this solicitation.

### 2. Explanations and Interpretations to Prospective Bidders

(a) Any prospective bidder desiring an explanation or interpretation of the solicitation, specifications, drawings, etc., must request it at least 7 days before the scheduled time for bid opening. Requests may be oral or written. Oral requests must be confirmed in writing. The only oral clarifications that will be provided will be those clearly related to solicitation procedures, i.e., not substantive technical information. No other oral explanation or interpretation will be provided. Any information given a prospective bidder concerning this solicitation will be furnished promptly to all other prospective bidders as a written amendment to the solicitation, if that information is necessary in submitting bids, or if the lack of it would be prejudicial to other prospective bidders.

(b) Any information obtained by, or provided to, a bidder other than by formal amendment to the solicitation shall not constitute a change to the solicitation.

### 3. Amendments to Invitations for Bids

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

(b) Bidders shall acknowledge receipt of any amendment to this solicitation (1) by signing and returning the amendment, (2) by identifying the amendment number and date on the bid form, or (3) by letter, telegram, or facsimile, if those methods are authorized in the solicitation. The PHA/IHA must receive acknowledgement by the time and at the place specified for receipt of bids. Bids which fail to acknowledge the bidder's receipt of any amendment will result in the rejection of the bid if the amendment(s) contained information which substantively changed the PHA's/IHA's requirements.

(c) Amendments will be on file in the offices of the PHA/IHA and the Architect at least 7 days before bid opening.

### 4. Responsibility of Prospective Contractor

(a) The PHA/IHA will award contracts only to responsible prospective contractors who have the ability to perform successfully under the terms and conditions of the proposed contract. In determining the responsibility of a bidder, the PHA/IHA will consider such matters as the bidder's:

- (1) Integrity;
- (2) Compliance with public policy;
- (3) Record of past performance; and
- (4) Financial and technical resources (including construction and technical equipment).

(b) Before a bid is considered for award, the bidder may be requested by the PHA/IHA to submit a statement or other documentation regarding any of the items in paragraph (a) above. Failure by the bidder to provide such additional information shall render the bidder nonresponsible and ineligible for award.

## 5. Late Submissions, Modifications, and Withdrawal of Bids

(a) Any bid 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 PHA/IHA that the late receipt was due solely to mishandling by the PHA/IHA after receipt at the PHA/IHA; or

(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 observed holidays.

(b) Any modification or withdrawal of a bid is subject to the same conditions as in paragraph (a) of this provision.

(c) The only acceptable evidence to establish the date of mailing of a late bid, 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 bid, 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, bidders should request the postal clerk to place a hand cancellation bull's-eye postmark on both the receipt and the envelope or wrapper.

(d) The only acceptable evidence to establish the time of receipt at the PHA/IHA is the time/date stamp of PHA/IHA on the proposal wrapper or other documentary evidence of receipt maintained by the PHA/IHA.

(e) The only acceptable evidence to establish the date of mailing of a late bid, 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, bidders should request the postal clerk to place a legible hand cancellation bull's eye postmark on both the receipt and Failure by a bidder to acknowledge receipt of the envelope or wrapper.

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

(g) Bids 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 the exact time set for opening of bids; provided that written confirmation of telegraphic or facsimile withdrawals over the signature of the bidder is mailed and postmarked prior to the specified bid opening time. A bid may be withdrawn in person by a bidder or its authorized representative if, before the exact time set for opening of bids, the identity of the person requesting withdrawal is established and the person signs a receipt for the bid.

## 6. Bid Opening

All bids received by the date and time of receipt specified in the solicitation will be publicly opened and read. The time and place of opening will be as specified in the solicitation. Bidders and other interested persons may be present.

## 7. Service of Protest

(a) Definitions. As used in this provision:

"Interested party" means an actual or prospective bidder whose direct economic interest would be affected by the award of the contract.

"Protest" means a written objection by an interested party to this solicitation or to a proposed or actual award of a contract pursuant to this solicitation.

(b) Protests shall be served on the Contracting Officer by obtaining written and dated acknowledgement from —

[Contracting Officer designate the official or location where a protest may be served on the Contracting Officer]

(c) All protests shall be resolved in accordance with the PHA's/IHA's protest policy and procedures, copies of which are maintained at the PHA/IHA.

## 8. Contract Award

(a) The PHA/IHA will evaluate bids in response to this solicitation without discussions and will award a contract to the responsible bidder whose bid, conforming to the solicitation, will be most advantageous to the PHA/IHA considering only price and any price-related factors specified in the solicitation.

(b) If the apparent low bid received in response to this solicitation exceeds the PHA's/IHA's available funding for the proposed contract work, the PHA/IHA may either accept separately priced items (see 8(e) below) or use the following procedure to determine contract award. The PHA/IHA shall apply in turn to each bid (proceeding in order from the apparent low bid to the high bid) each of the separately priced bid deductible items, if any, in their priority order set forth in this solicitation. If upon the application of the first deductible item to all initial bids, a new low bid is within the PHA's/IHA's available funding, then award shall be made to that bidder. If no bid is within the available funding amount, then the PHA/IHA shall apply the second deductible item. The PHA/IHA shall continue this process until an evaluated low bid, if any, is within the PHA's/IHA's available funding. If upon the application of all deductibles, no bid is within the PHA's/IHA's available funding, or if the solicitation does not request separately priced deductibles, the PHA/IHA shall follow its written policy and procedures in making any award under this solicitation.

(c) In the case of tie low bids, award shall be made in accordance with the PHA's/IHA's written policy and procedures.

(d) The PHA/IHA may reject any and all bids, accept other than the lowest bid (e.g., the apparent low bid is unreasonably low), and waive informalities or minor irregularities in bids received, in accordance with the PHA's/IHA's written policy and procedures.

(e) Unless precluded elsewhere in the solicitation, the PHA/IHA may accept any item or combination of items bid.

(f) The PHA/IHA may reject any bid as nonresponsive if it is materially unbalanced as to the prices for the various items of work to be performed. A bid is materially unbalanced when it is based on prices significantly less than cost for some work and prices which are significantly overstated for other work.

(g) A written award shall be furnished to the successful bidder within the period for acceptance specified in the bid and shall result in a binding contract without further action by either party.

**9. Bid Guarantee (applicable to construction and equipment contracts exceeding \$25,000)**

All bids must be accompanied by a negotiable bid guarantee which shall not be less than five percent (5%) of the amount of the bid. The bid guarantee may be a certified check, bank draft, U.S. Government Bonds at par value, or a bid bond secured by a surety company acceptable to the U.S. Government and authorized to do business in the state where the work is to be performed. In the case where the work under the contract will be performed on an Indian reservation area, the bid guarantee may also be an irrevocable Letter of Credit (see provision 10, Assurance of Completion, below). Certified checks and bank drafts must be made payable to the order of the PHA/IHA. The bid guarantee shall insure the execution of the contract and the furnishing of a method of assurance of completion by the successful bidder as required by the solicitation. Failure to submit a bid guarantee with the bid shall result in the rejection of the bid. Bid guarantees submitted by unsuccessful bidders will be returned as soon as practicable after bid opening.

**10. Assurance of Completion**

(a) Unless otherwise provided in State law, the successful bidder shall furnish an assurance of completion prior to the execution of any contract under this solicitation. This assurance may be [Contracting Officer check applicable items] —

[ ] (1) a performance and payment bond in a penal sum of 100 percent of the contract price; or, as may be required or permitted by State law;

[ ] (2) separate performance and payment bonds, each for 50 percent or more of the contract price;

[ ] (3) a 20 percent cash escrow;

[ ] (4) a 25 percent irrevocable letter of credit; or,

[ ] (5) an irrevocable letter of credit for 10 percent of the total contract price with a monitoring and disbursements agreement with the IHA (applicable only to contracts awarded by an IHA under the Indian Housing Program).

(b) Bonds must be obtained from guarantee or surety companies acceptable to the U.S. Government and authorized to do business in the state where the work is to be performed. Individual sureties will not be considered. U.S. Treasury Circular Number 570, published annually in the Federal Register, lists companies approved to act as sureties on bonds securing Government contracts, the maximum underwriting limits on each contract bonded, and the States in which the company is licensed to do business. Use of companies listed in this circular is mandatory. Copies of the circular may be downloaded on the U.S. Department of Treasury website <http://www.fms.treas.gov/c570/index.html>, or ordered for a minimum fee by contacting the Government Printing Office at (202) 512-2168.

(c) Each bond shall clearly state the rate of premium and the total amount of premium charged. The current power of attorney for the person who signs for the surety company must be attached to the bond. The effective date of the power of attorney shall not precede the date of the bond. The effective date of the bond shall be on or after the execution date of the contract.

(d) Failure by the successful bidder to obtain the required assurance of completion within the time specified, or within such extended period as the PHA/IHA may grant based upon reasons determined adequate by the PHA/IHA, shall render the bidder ineligible for award. The PHA/IHA may then either award the contract to the next lowest responsible bidder or solicit new bids. The PHA/IHA may retain the ineligible bidder's bid guarantee.

**11. Preconstruction Conference (applicable to construction contracts)**

After award of a contract under this solicitation and prior to the start of work, the successful bidder will be required to attend a preconstruction conference with representatives of the PHA/IHA and its architect/engineer, and other interested parties convened by the PHA/IHA. The conference will serve to acquaint the participants with the general plan of the construction operation and all other requirements of the contract (e.g., Equal Employment Opportunity, Labor Standards). The PHA/IHA will provide the successful bidder with the date, time, and place of the conference.

**12. Indian Preference Requirements (applicable only if this solicitation is for a contract to be performed on a project for an Indian Housing Authority)**

(a) HUD has determined that the contract awarded under this solicitation is subject to the requirements of section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e(b)). Section 7(b) requires that any contract or subcontract entered into for the benefit of Indians shall require that, to the greatest extent feasible

(1) Preferences and opportunities for training and employment (other than core crew positions; see paragraph (h) below) in connection with the administration of such contracts or subcontracts be given to qualified "Indians." The Act defines "Indians" to mean persons who are members of an Indian tribe and defines "Indian tribe" to mean any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; and,

(2) Preference in the award of contracts or subcontracts in connection with the administration of contracts be given to Indian organizations and to Indian-owned economic enterprises, as defined in section 3 of the Indian Financing Act of 1974 (25 U.S.C. 1452). That Act defines "economic enterprise" to mean any Indian-owned commercial, industrial, or business activity established or organized for the purpose of profit, except that the Indian ownership must constitute not less than 51 percent of the enterprise; "Indian organization" to mean the governing body of any Indian tribe or entity established or recognized by such governing body; "Indian" to mean 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; and Indian "tribe" to mean 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.

(b) (1) The successful Contractor under this solicitation shall comply with the requirements of this provision in awarding all subcontracts under the contract and in providing training and employment opportunities.

(2) A finding by the IHA that the contractor, either (i) awarded a subcontract without using the procedure required by the IHA, (ii) falsely represented that subcontracts would be awarded to Indian enterprises or organizations; or, (iii) failed to comply with the contractor's employment and training preference bid statement shall be grounds for termination of the contract or for the assessment of penalties or other remedies.

(c) If specified elsewhere in this solicitation, the IHA may restrict the solicitation to qualified Indian-owned enterprises and Indian organizations. If two or more (or a greater number as specified elsewhere in the solicitation) qualified Indian-owned enterprises or organizations submit responsive bids, award shall be made to the qualified enterprise or organization with the lowest responsive bid. If fewer than the minimum required number of qualified Indian-owned enterprises or organizations submit responsive bids, the IHA shall reject all bids and readvertise the solicitation in accordance with paragraph (d) below.

(d) If the IHA prefers not to restrict the solicitation as described in paragraph (c) above, or if after having restricted a solicitation an insufficient number of qualified Indian enterprises or organizations submit bids, the IHA may advertise for bids from non-Indian as well as Indian-owned enterprises and Indian organizations. Award shall be made to the qualified Indian enterprise or organization with the lowest responsive bid if that bid is -

(1) Within the maximum HUD-approved budget amount established for the specific project or activity for which bids are being solicited; and

(2) No more than the percentage specified in 24 CFR 905.175(c) higher than the total bid price of the lowest responsive bid from any qualified bidder. If no responsive bid by a qualified Indian-owned economic enterprise or organization is within the stated range of the total bid price of the lowest responsive bid from any qualified enterprise, award shall be made to the bidder with the lowest bid.

(e) Bidders seeking to qualify for preference in contracting or subcontracting shall submit proof of Indian ownership with their bids. Proof of Indian ownership shall include but not be limited to:

(1) Certification by a tribe or other evidence that the bidder is an Indian. The IHA shall accept the certification of a tribe that an individual is a member.

(2) Evidence such as stock ownership, structure, management, control, financing and salary or profit sharing arrangements of the enterprise.

(f) (1) All bidders must submit with their bids a statement describing how they will provide Indian preference in the award of subcontracts. The specific requirements of that statement and the factors to be used by the IHA in determining the statement's adequacy are included as an attachment to this solicitation. Any bid that fails to include the required statement shall be rejected as nonresponsive. The IHA may require that comparable statements be provided by subcontractors to the successful Contractor, and may require the Contractor to reject any bid or proposal by a subcontractor that fails to include the statement.

(2) Bidders and prospective subcontractors shall submit a certification (supported by credible evidence) to the IHA in any instance where the bidder or subcontractor believes it is infeasible to provide Indian preference in subcontracting. The acceptance or rejection by the IHA of the certification shall be final. Rejection shall disqualify the bid from further consideration.

(g) All bidders must submit with their bids a statement detailing their employment and training opportunities and their plans to provide preference to Indians in implementing the contract; and the number or percentage of Indians anticipated to be employed and trained. Comparable statements from all proposed subcontractors must be submitted. The criteria to be used by the IHA in determining the statement(s)'s adequacy are included as an attachment to this solicitation. Any bid that fails to include the required statement(s), or that includes a statement that does not meet minimum standards required by the IHA shall be rejected as nonresponsive.

(h) Core crew employees. A core crew employee is an individual who is a bona fide employee of the contractor at the time the bid is submitted; or an individual who was not employed by the bidder at the time the bid was submitted, but who is regularly employed by the bidder in a supervisory or other key skilled position when work is available. Bidders shall submit with their bids a list of all core crew employees.

(i) Preference in contracting, subcontracting, employment, and training shall apply not only on-site, on the reservation, or within the IHA's jurisdiction, but also to contracts with firms that operate outside these areas (e.g., employment in modular or manufactured housing construction facilities).

(j) Bidders should contact the IHA to determine if any additional local preference requirements are applicable to this solicitation.

(k) The IHA [ ] does [ ] does not [Contracting Officer check applicable box] maintain lists of Indian-owned economic enterprises and Indian organizations by specialty (e.g., plumbing, electrical, foundations), which are available to bidders to assist them in meeting their responsibility to provide preference in connection with the administration of contracts and subcontracts.



# Instructions to Offerors Non-Construction

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



- 03291 -

## 1. Preparation of Offers

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

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

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

## 2. Submission of Offers

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

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

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

## 3. Amendments to Solicitations

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

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

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

## 4. Explanation to Prospective Offerors

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

## 5. Responsibility of Prospective Contractor

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### **7. Contract Award**

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

(b) The HA may

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

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

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

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

#### **8. Service of Protest**

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

#### **9. Offer Submission**

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

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

[Describe bid or proposal preparation instructions here:]

# 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. 1/31/2027)

Public Reporting Burden for this collection of information is estimated to average one hour 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. HUD may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB number. This form includes those clauses required by OMB's common rule on grantee procurement, implemented at HUD in 2 CFR 200, and those requirements set forth in Section 3 of the Housing and Urban Development Act of 1968 and its amendment by the Housing and Community Development Act of 1992, implemented by HUD at 24 CFR Part 75. The form is required for non-construction contracts awarded by Public Housing Agencies (PHAs). The form is used by PHAs in solicitations to provide necessary contract clauses and allows PHAs to enforce their contracts. Comments regarding the accuracy of this burden estimate and any suggestions for reducing this burden can be sent to the Reports Management Officer, Office of Policy Development and Research, REE, Department of Housing and Urban Development, 451 7th St SW, Room 4176, Washington, DC 20410-5000. When providing comments, please refer to OMB Approval No. 2577-0157. Do not send this completed form to either of these addressees. The information collected will not be held confidential.

**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 \$250,000 - use Section I;**
- 2) **Maintenance contracts** (including nonroutine maintenance as defined at 24 CFR 905.100) **greater than \$2,000 but not more than \$250,000 - use Section II;** and
- 3) **Maintenance contracts** (including nonroutine maintenance), **greater than \$250,000 — use Sections I and II.**

### Section I - Clauses for All Non-Construction Contracts greater than \$250,000

#### 1. Definitions

The following definitions are applicable to this contract:

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

#### 2. Changes

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

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

#### 3. Termination for Convenience and Default

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

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

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

- 
- (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 111, 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
  - ( ) The Contractor's objectivity in performing the contract work may be impaired.
- (b) The Contractor agrees that if after award it discovers an organizational conflict of interest with respect to this contract or any task/delivery order under the contract, he or she shall make an immediate and full disclosure in writing to the Contracting Officer which shall include a description of the action which the Contractor has taken or intends to take to eliminate or neutralize the conflict. The HA may, however, terminate the contract or task/delivery order for the convenience of the HA if it would be in the best interest of the HA.
- (c) In the event the Contractor was aware of an organizational conflict of interest before the award of this contract and intentionally did not disclose the conflict to the Contracting Officer, the HA may terminate the contract for default.
- (d) The terms of this clause shall be included in all subcontracts and consulting agreements wherein the work to be performed is similar to the service provided by the prime Contractor. The Contractor shall include in such subcontracts and consulting agreements any necessary provisions to eliminate or neutralize conflicts of interest.

#### 12. Inspection and Acceptance

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

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

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

### 13. Interest of Members of Congress

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

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

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

### 15. Limitation on Payments to Influence Certain Federal Transactions

(a) Definitions. As used in this clause:

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Prohibition.

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

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

## 16. Equal Employment Opportunity

During the performance of this contract, the

Contractor/Seller agrees as follows:

(a) The [contractor/seller] will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, disability, or national origin. The

[contractor/seller] will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, disability, 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/seller] 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/seller] will, in all solicitations or advertisements for employees placed by or on behalf of the [contractor/seller], state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, disability, or national origin.

(c) The [contractor/seller] will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the [contractor/seller]'s legal duty to furnish information.

(d) The [contractor/seller] will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the [contractor/seller]'s commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(e) The [contractor/seller] will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(f) The [contractor/seller] will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(g) In the event of the [contractor/seller]'s non-compliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the [contractor/seller] may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(g) In the event of the [contractor/seller]'s non-compliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the [contractor/seller] may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

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

## 17. Equal Opportunity for Workers with Disabilities

1. The [contractor/seller] will not discriminate against any employee or applicant for employment because of physical or mental disability in regard to any position for which the employee or applicant for employment is qualified. The [contractor/seller] agrees to take affirmative action to employ and advance in employment individuals with disabilities, and to treat qualified individuals without discrimination on the basis of their physical or mental disability in all employment practices, including the following:

- i. Recruitment, advertising, and job application procedures;
- ii. Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff and rehiring;
- iii. Rates of pay or any other form of compensation and changes in compensation;
- iv. Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;
- v. Leaves of absence, sick leave, or any other leave;
- vi. Fringe benefits available by virtue of employment, whether or not administered by the [contractor/seller];
- vii. Selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;
- viii. Activities sponsored by the [contractor/seller] including social or recreational programs; and
- ix. Any other term, condition, or privilege of employment.

2. The [contractor/seller] agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the act.

3. In the event of the [contractor/seller] noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the act.

4. The [contractor/seller] agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Director, Office of Federal Contract Compliance Programs, provided by or through the contracting officer. Such notices shall state the rights of applicants and employees as well as the [contractor/seller]'s obligation under the law to take affirmative action to employ and advance in employment qualified employees and applicants with disabilities.

The [contractor/seller] must ensure that applicants or employees with disabilities are provided the notice in a form that is accessible and understandable to the individual applicant or employee (e.g., providing Brail or large print versions of the notice, or posting a copy of the notice at a lower height for easy viewing by a person using a wheelchair). With respect to employees who do not work at a physical location of the [contractor/seller], a [contractor/seller] will satisfy its posting obligations by posting such notices in an electronic format, provided that the [contractor/seller] provides computers, or access to computers, that can access the electronic posting to such employees, or the [contractor/seller] has actual knowledge that such employees otherwise are able to access the electronically posted notices. Electronic notices for employees must be posted in a conspicuous location and format on the company's intranet or sent by electronic mail to employees. An electronic posting must be used by the [contractor/seller] to notify job applicants of their rights if the [contractor/seller] utilizes an electronic application process. Such electronic applicant notice must be conspicuously stored with, or as part of, the electronic application.

5. The [contractor/seller] will notify each labor organization or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the [contractor/seller] is bound by the terms of section 503 of the Rehabilitation Act of 1973, as amended, and is committed to take affirmative action to employ and advance in employment, and shall not discriminate against, individuals with physical or mental disabilities.

6. The [contractor/seller] will include the provisions of this clause in every subcontract or purchase order in excess of \$ 10,000, unless exempted by the rules, regulations, or orders of the Secretary issued pursuant to section 503 of the act, as amended, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the Director, Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

7. The [contractor/seller] must, in all solicitations or advertisements for employees placed by or on behalf of the [contractor/seller], state that all qualified applicants will receive consideration for employment and will not be discriminated against on the basis of disability.

#### **18. 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.

#### **19. 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.

#### **20. 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.

#### **21. Liens**

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

#### **22. 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 75, 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 75 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 prioritization requirements, and shall state the minimum percentages of labor hour requirements established in the Benchmark Notice (FR-6085-N-04)..
- (d) The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 75, 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 75. 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 75.
- (e) Noncompliance with HUD's regulations in 24 CFR Part 75 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts
- (f) Contracts, subcontracts, grants, or subgrants subject to Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5307(b)) or subject to tribal preference requirements as authorized under 101(k) of the Native American Housing Assistance and Self-Determination Act (25 U.S.C. 4111(k)) must provide preferences in employment, training, and business opportunities to Indians and Indian organizations, and are therefore not subject to the requirements of 24 CFR Part 75.

#### **23. 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

**STATE OF NORTH CAROLINA  
E-VERIFY AFFIDAVIT**

NOW COMES Affiant, first being sworn, deposes and says as follows:

1. I have submitted a bid for contract or desire to enter into a contract with the Housing Authority of the City of Goldsboro;

2. As part of my duties and responsibilities pursuant to said bid and/or contract, I attest that I am aware of and in compliance with the requirements of E-Verify, Article 2 of Chapter 64 of the North Carolina General Statutes, to include (mark which applies):

After hiring an employee to work in the United States I verify the work authorization of said employee through E-Verify and retain the record of the verification of work authorization while the employee is employed and for one year thereafter; or

I employ less than twenty-five (25) employees in the State of North Carolina.

3. As part of my duties and responsibilities pursuant to said bid and/or contract, I attest that to the best of my knowledge any subcontractors employed as a part of this bid and/or contract are in compliance with the requirements of E-Verify, Article 2 of Chapter 64 of the North Carolina General Statutes, to include (mark which applies):

After hiring an employee to work in the United States the subcontractor verifies the work authorization of said employee through E-Verify and retain the record of the verification of work authorization while the employee is employed and for one year thereafter; or

Employ less than twenty-five (25) employees in the State of North Carolina.

Specify subcontractor: \_\_\_\_\_

This the \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Affiant

Sworn to and subscribed before me, this the \_\_\_\_\_ day of \_\_\_\_\_, 2018.

[OFFICIAL SEAL]

\_\_\_\_\_, Notary Public

My Commission Expires: \_\_\_\_\_

**HOUSING AUTHORITY OF THE CITY OF**  
**GOLDSBORO**

NON-COLLUSIVE FORM

\_\_\_\_\_, being first duly sworn, deposes and states:  
[Name]

I, have the authority as an authorized agent of \_\_\_\_\_  
[Name of Company]  
and attest to the following:

The foregoing Proposal/Offer, is genuine and not collusive or sham; that said bidder has not colluded, conspired, connived, or agreed, directly or indirectly, with any bidder or person, to put in a sham bid or refrain from bidding, and has not in any manner, directly or indirectly, sought by agreement or collusion, or communication or conference, with any person, to fix the bid price of affiant or any other bidder, or to fix any overhead, profit or cost element of said bid price, or of that of any other bidder, and to secure any advantage against the Housing Authority of the City of Goldsboro of any person entered in the proposal contract; and that all statements in said Proposal/Offer are true and correct.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

State of \_\_\_\_\_

County of \_\_\_\_\_

Signed and sworn to before me, this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

Notary Public: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_



September 23, 2021

Mr. Anthony Goodson, Jr., CEO  
Goldsboro Housing Authority  
700 North Jefferson Avenue  
Goldsboro, NC 27530

This policy was written for The Housing Authority of the City of Goldsboro (HACG) at the request of Mr. Anthony Goodson, Jr., Chief Executive Officer, to ensure the equitable participation of all minority groups, small, emerging businesses, and Section 3 Resident Owned Businesses in HACG future contracting.

Recognizing that contracting goals have failed to meet the intended results of enhanced minority and women-owned businesses participating in the contracting of goods and services for HACG, Mr. Goodson is now focused on definite participation through the establishment of these contracting requirements. Beyond that, HACG desires to enhance those objectives by creating and expanding on the target groups who qualify for special consideration. Therefore, this Policy shall include:

- Minority and Women-owned Businesses
- Small and Emerging Local Businesses
- HUD Section 3 Policy (In compliance with the 24 CFR Part 75)
- Major Employer Status (Preference for Employing Local Residents)
- Veteran-owned Businesses
- Special Population Groups/Organizations

# Contract Inclusion Participation Policy

---

<b><u>Table of Contents</u></b>	<b><u>Page</u></b>
Policy Purpose	4
Minority- and Women-Owned Businesses	5-8
Small and Emerging Local Businesses (S&EB)	9-18
HUD Section 3 Policy (In compliance with the 24 CFR Part 75)	19-31
Major Employer Status (Preference for Employing Local Residents)	32-34
Veteran-Owned Businesses	35
Special Population Employers/Contractors/Vendor Groups and Organization	36

## POLICY PURPOSE

The purpose of this inclusion policy is to ensure a minimum participation by minority and small businesses based in Goldsboro in the contracting of the Goldsboro Housing Authority. Furthermore, this policy is designed to protect those residents (low income and other) by ensuring they will receive priority in any new employment created by the contracting or other hiring by Goldsboro Housing Authority.

This policy shall set a precedent of prioritizing local businesses and residents as never before seen in any one local market. Through insight into the future, where technology continues to absorb jobs, the GHA leadership feels the time is now to protect as many employment opportunities as possible from outside interest.

The designated contact for all inclusion policy questions and concerns:

Thaddeus B. Washington  
Section 3 Coordinator  
(919) 735-4226 ext: 1402  
[twashington@hacg.org](mailto:twashington@hacg.org)

# Minority- and Women-Owned Businesses

# Contract Inclusion Participation Policy

---

## DEFINITIONS

**Minority Business Enterprise (MBE)** - A business concern that has been certified to be at least 51 percent owned, managed, operated and controlled by one or more minorities, or in the case of a publicly owned business, at least 51 percent of the stock is owned by one or more minorities who are a member of any of the following groups:

(a) African American. All persons having origins in any of the black racial groups of African descent as well as those who identify as Jamaican, Trinidadian, and West Indian;

(b) Asian or Pacific Islander. All persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands. This area includes, for example, China, Japan, Korea, the Philippine Islands, and Samoa;

(c) Asian-Indian. All persons whose origins are from India, Pakistan, and Bangladesh;

(d) Hispanic. All persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race; and

(e) American Indian and Alaskan native. All persons having origins in any of the original peoples of North America, and who maintain cultural identification through tribal affiliation or community; to include Aleuts and Eskimo.

Please note, the federal government has stated that this designation is based on self-identification of the individual and not any other factor, such as birth records, drivers' licenses, or passports. That means, there may be times in which a person does not appear to meet an ethnic class but in fact is self-identifying accordingly.

Also, it must be stated that according to many native tribal customs, if a person or their family members name appears on the Dawes Census with proof of lineage, they can be considered 100% Native American. Slaves and Freedman along with white (male Irish) people were recorded as Native American because of the census records taken after the Trail of Tears and return of the indigenous people to their new lands.

**Women-Owned Business Enterprise (WBE)** - A business concern that is:

(1) At least 51 percent owned, managed, operated, and controlled by one or more women or in the case of a publicly owned business, at least 51 percent of the stock is owned by one or more women. Because a WBE can also be counted under other designated categories within this policy, it will be an acceptable practice for any contractor/vendor to layer priority and preference categories and designations.; and

# Contract Inclusion Participation Policy

---

(2) Whose daily business operations are managed and directed by one or more of the women owners.

## REQUIREMENTS FOR M/WBE CONTRACTING

It is the intent of HACG to ensure minority- and women-owned businesses a place within the annual contracts issued by the authority without regard for the contracting level.

To this end, HACG is stipulating that effective November 1, 2021 minority and women shall make up Thirty percent respectively (30%) of the total contracting dollars issued by HACG in any one fiscal

Beyond the total for all annual contract values above, HACG is hereby requiring all contracts in excess of \$100,000 that minority- and women-owned businesses must be at a minimum Thirty-five percent (35%) of the total dollar value of all contracting for those specific projects.

These are minimum requirements only and every documented recruiting effort must be made to notify these target groups of the contracting opportunities and every consideration granted them in reviewing, assessing qualifications, and awarding contracts.

These required documents must include, but are not limited to:

- Notifying in writing all local (Goldsboro-based) minority contracting organizations feasible
- Hosting informational meetings before any contracts are let with all contractors including minority- and women-owned businesses
- Direct email invitations/notices of all meetings and bid opportunities well in advance of letting any contracts
- Providing the highest priority of contracting to qualified Goldsboro-based contractors with minority- and women-owned businesses
- Newspaper advertising for all projects over \$100,000 with specific language “Encouraging minority and women owned businesses to bid” the work
- Ensure a system of considering qualified minority- and women-owned businesses when rebidding any work must be completed, despite the response of such firms in any initial bidding responses
- Only expand outside of Goldsboro after a thorough and documented bidding outreach to provide notice and consideration for local minority- and women-owned businesses
- Ensure that minority- and women-owned businesses are being considered for all professional, trade, and other work so they are not limited to simply one category or trade level



# Contract Inclusion Participation Policy

---

All efforts undertaken must be clearly documented, retained, and provided to HACG upon request. Such documents must be retained for a minimum of seven years beyond closeout of any contract despite the results and contract value.

Any HACG contract not meeting these requirements and contracting levels will be subject to termination by the CEO for non-compliance, unless sufficient documentation can be provided verifying outreach and bidding consideration efforts.

Such bidding consideration can include breaking large contracts into smaller components to allow small and emerging and existing businesses to participate at an economic level suitable to their qualifications of credit, capital, and experience. Large contractors should consider offering small contractors true daily mentorship in operational matters when such actions will not hinder project completion or cost schedules, but may provide important educational and capacity building for the small contractor.

These same considerations shall be provided to smaller minority- and women-owned businesses providing materials only for any contract. Such material and supply contracts will count toward the overall 30% and/or 35% requirement.

A list of all minority- and women-owned businesses with their contract value and percentage of the whole contract must be made available to HACG prior to contract start, with every pay application/invoice, draw meeting (where applicable) and at contract closeout. If at any time the required 30% and/or 35% is not met, HACG reserves the right to stop work, review the contracting and bidding status (including actual bids by all contractors), and take any action it deems appropriate to ensure this requirement has been met, up to termination of contract, if the efforts were not met or are acceptable to the CEO.

Contractors will remain in full control of the outreach process without hinderance from the HACG staff. Therefore, all of the outcomes are also exclusively tied to the contractor. Any assistance requested from the HACG staff is not intended to be assumed to remove or replace the contractors' responsibilities toward meeting or exceeding these contract requirements.

END OF THE MINORITY- AND WOMEN-OWNED BUSINESSES POLICY PORTION

# Small and Emerging Businesses

# Contract Inclusion Participation Policy

---

## 1.0 DEFINITIONS

As used herein the following terms shall have the following meanings:

**Capital Project** - A project set forth in the Capital Improvement Program funded by The Housing Authority of the City of Goldsboro.

**Capital Improvement Program (CIP)** - An annual list of specific construction projects to be completed by The Housing Authority of the City of Goldsboro.

**Procurement** - The Housing Authority of the City of Goldsboro requisitioning the work or services to be performed as part of an overall Capital Project or S&EB eligible project.

**Requirement** - Targeted outcome of the program also refers to the ratio or dollar amount of project potential for qualified, sub-contracting HACG- S&EB.

**Independent Firm** - A business which is owned, operated, controlled and managed by an individual with at least 51% ownership, and upon whom the success and/or failure of the firm depends.

**Price Sharing** - A form of collusion in which information is shared between two or more parties for a fraudulent, illegal, or deceitful purpose.

**Prime Contractor** - The principal contractor who has been awarded the contract for the capital project.

**Prime Contracts** - Contracts to perform on whole or principal capital projects.

**Program** - The components that comprise the S&EB requirement, including processes.

**Request for Proposal (RFP)** - A document issued by Goldsboro Housing Authority whereby the Purchasing Department outlines the intent to purchase a good or service inviting potential vendors to submit proposals for products, solutions and services.

**Request for Qualifications (RFQ)** - A competitive process conducted by Goldsboro Housing Authority whereby the Purchasing Department publicly advertises requests for businesses to submit a proposal outlining the entity's qualifications for the pre-qualification and procurement of professional services, service contracts, etc.

**Small and Emerging Business(es)** - See requirements in Section 3.0 below.

# Contract Inclusion Participation Policy

---

**Subcontractor** - The one who takes a portion of contract from principal contractor or another subcontractor.

**Goldsboro Housing Authority Service Area** - The area composed of the legal boundaries of Goldsboro, NC. This may include the appropriate MSA area as applicable.

**Goldsboro Housing Authority's Small and Emerging Business (S&EB)** - All businesses who meet all of the criteria established under this resolution and is self-certified hereunder.

## 2.0 PURPOSE AND OVERVIEW OF THE PROGRAM

The purpose of the program is to provide opportunities for qualified Small and Emerging Businesses (S&EB), to conduct business with Goldsboro Housing Authority. Small and Emerging Businesses must meet a series of qualifications and self-certify they have adequately met those criteria as defined herein to qualify to participate in the program prior to gaining access to the program's bidding opportunities.

## 3.0 CRITERIA FOR CERTIFICATION

Self-certification shall be made by any business for which the owner has the ability and expertise to manage and control the firm's operations and work.

**3.1** To self-certify as a S&EB, an individual owner must meet the following criteria:

**3.1.1** reside in the city in the Goldsboro Housing Authority Service Area for a minimum of one year at the time the response to any solicitation is submitted; or have an established business headquartered for a minimum of six months in Goldsboro;

**3.1.2** have a personal net worth less than \$250,000, excluding personal residence, including but not limited to business value and assets (measured as book value), ownership in other businesses and all other assets personally owned, held in trust for the individual owner's benefit, or held by a spouse;

**3.1.3** have not received any contracts under this designation in the past two years from any other locale in NC;

**3.1.4** own and control more than 51% of the business interest of the business entity being certified;

**3.1.5** own any license required by local, state, or federal law;

# Contract Inclusion Participation Policy

---

**3.1.6** have expertise normally required by the industry for the field for which certification is being made;

**3.1.7** be a for-profit small business concern;

**3.1.8** not be a front, a broker, or a pass-through for others;

**3.1.9** perform a commercially useful function typical of the field for which certification is being made;

**3.1.10** not be controlled or operate as front by non-S&EB family owned, former or present employers;

**3.1.11** not have familial relationships that may be in conflict with any other public housing regulations regarding contracts and procurement;

**3.1.12** the S&EB owner(s) contributions of capital or expertise to acquire the ownership interest must be real and substantial; and

**3.1.13** be a business, including a sole proprietorship, partnership, corporation, limited liability company, or any other business or professional entity;

**3.1.13.1** Which is at least 51% owned by one or more of the individuals identified herein in paragraph (c)(1) the ownership of any such business that has been in existence for six months or over must have maintained such 51% ownership for at least six months; and

**3.1.13.2** In the case of a publicly owned business, at least 51% of all classes of the stock of which is owned by one or more of such persons each of whom meets the personal net worth criteria set forth above; and

**3.1.13.3** Be a citizen or lawfully admitted permanent resident of the United States and be compliant with the residency requirements of the S&EB program.

**3.2** Only a firm that is managed and controlled by a S&EB may self-certify under the S&EB program. The S&EB owner(s) must actually exercise control over the firm's operations, work, management, and policy. Evidence of such controls are as follows:

**3.2.1** A firm must not be subject to any formal or informal restrictions that limit the customary discretion of such owner. There can be no restrictions through corporate charter provisions, by-law provisions, contracts, or any other formal or informal devices that prevent the S&EB owner, without the cooperation or vote of a non-qualifying person or entity from making any business decision of the firm.

**3.2.2** The S&EB owner may delegate various areas of the management or daily operations of the firm to persons, only if such delegation is typical in the industry for such businesses. Such delegations of authority must be revocable, and the S&EB must retain the power to hire and terminate any such person. The S&EB owner must have an overall understanding of the

# Contract Inclusion Participation Policy

---

business, and managerial/technical competence, experience, and expertise, directly related to the firm's operations and work.

**3.2.3** The S&EB owner cannot engage in outside employment or other business interests that conflicts with the management of the firm or prevents the owner from devoting sufficient time and attention to the affairs of the firm to manage and control its activities unless such activities would be appropriate with commensurate businesses, in order to avoid fake or fraudulent certifications.

**3.3** Only an independent firm may be certified as a S&EB. An independent firm is one whose viability does not depend on its relationship with another firm. Recognition of a self-certified entity as a separate entity for tax or corporate purposes is not necessarily sufficient to demonstrate that a firm is independent. In determining whether an entity is an independent business, the CEO or their designee over Contracts and Procurement will:

**3.3.1** Scrutinize relationships with non-S&EB in such areas as personnel, facilities, equipment, financial and/or bonding support, and other resources.

**3.3.2** Consider whether present or recent family, or employer/employee relationships between the entity compromises the entity's independence.

**3.3.3** Examine the entity's relationships with non-S&EB prime contractors to determine whether a pattern of exclusive or primary dealings with a prime contractor compromises the entity's independence.

**3.3.4** Consider the consistency of relationships between the entity and non-S&EB with normal industry practices.

**3.3.5** An owner shall self-certify only for specific types of work for which the owner(s) has the ability and expertise to manage and control the firm's operations and work.

## 4.0 PROGRAM ADMINISTRATION GUIDELINES

**4.1** The Housing Authority of the City of Goldsboro's Small and Emerging Business Program

**4.1.1** HACG and its prime contractors shall identify opportunities that can be isolated directly to these businesses annually. These goals are established for the first year of the S&EB program and may be revised based on measurable results after year one.

**4.1.2** In implementing the program, the S&EB shall first provide opportunities for direct or prime contracting. Such opportunities should be created by breaking procurement/contracting opportunities packages into small components, and separating work that requires licenses from that which does not in separate bid or proposal requests where feasible.

# Contract Inclusion Participation Policy

---

**4.1.3** Subcontracting opportunities should be provided within vertical construction projects, and infrastructure project opportunities to the greatest extent possible, by prime or direct contracting. Nevertheless, the subcontracting opportunities shall be provided to those trades typically established as subcontractors.

**4.1.4** HACG may issue joint checks upon the request of the S&EB in order to facilitate bonding, financing, or other requirements of contracting.

## **4.2 S&EB Program Administration**

4.2.1 Ultimate program control shall fall with the CEO or their designee.

## **4.3 Access to Capital**

4.3.1 HACG is not committing any access to capital as part of this program.

## **4.4. NUMERICAL REQUIREMENTS FOR ALL S&EB CONTRACTING**

The percentages set forth below for S&EB are annual goals set to achieve participation levels commensurate with available businesses. The following goals shall pertain to all of the subsections as applicable: Construction (10%), Construction-Related Professional Services (10%), Contractual Services (10%) and Commodities Contracts (10%).

## **4.5 THE HOUSING AUTHORITY OF THE CITY OF GOLDSBORO SMALL AND EMERGING BUSINESS REQUIREMENT**

The following requirements are for S&EB:

**4.5.1** The overall small and emerging business goals is 10% of the total dollar amount of all eligible contracts on a project-by-project basis, such that HACG may award at least 10% of total contracts to HACG- S&EB; provided that such awards do not violate state or federal law and provided further that there are self-certified S&EB to perform the work.

## **4.6 Contract Pre-Award Compliance Procedures**

**4.6.1** For all solicitations, the bidder/proposer shall submit a Schedule of Participation detailing all S&EB and non-S&EB subcontractors from which the bidder/proposer solicited bids or quotations. The entities comprising the S&EB requirement of at least 10% as set forth shall be identified, or the basis for a waiver for greatest extent feasible efforts shall be provided with the bid or proposal. The list of S&EB posted on HACG's website establishes the group from which a bidder/proposer must solicit subcontractors under this requirement. The S&EB participation shall be due at the time established in the solicitation documents.

**4.6.2** Any agreement between a bidder/proposer that prevents a S&EB from providing quotes to other bidders/proposers is prohibited.

**4.6.3** Joint ventures shall only be allowed under this requirement in cases that demonstrate legitimate, detailed S&EB partnerships with non- S&EB, proof of which shall be provided to and approved by HACG.

# Contract Inclusion Participation Policy

---

**4.6.4** Where the bidder/proposer cannot achieve the Project Specific Requirement(s), HACG will determine whether acceptable efforts have been made. In making this determination, the staff will consider, at a minimum, a matrix to determine the bidder/proposer's efforts to:

**4.6.4.1** Solicit certified subcontractors in the scopes of work of the contract. The bidder/proposer shall provide interested S&EB with timely, adequate information about the plans, specifications, and other such requirements of the contract to facilitate their quotation. The bidder/proposer must follow up initial solicitations with interested hacg-S&EB.

**4.6.4.2** Identify a portion of the work available to S&EB consistent with their availability and capacity.

**4.6.4.3** Negotiate in good faith with interested HACG- S&EB. Price sharing is prohibited in negotiations. Evidence of such negotiation includes the names, addresses, and telephone numbers of S&EB that were contacted; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and why agreements could not be reached with them. The ability or desire of a bidder/proposer to perform the work of a contract with its own organization does not relieve it of the responsibility to make efforts on all scopes of work subject to subcontracting.

**4.6.4.4** Facilitate the leasing of equipment-supplies, or equipment when they are of such a specialized nature that the S&EB could not readily and economically obtain them in the marketplace, where feasible.

## **4.7 GREATEST EXTENT FEASIBLE EFFORTS IN LIEU OF MEETING PROGRAM REQUIREMENTS**

For a contract with S&EB subcontracting goals, a contractor must comply by either meeting the requirement or demonstrating to the greatest extent feasible that it tried to achieve subcontracting consistent with the requirements set forth in this part. In determining whether a bidder/proposer has made these efforts, in lieu of achieving the stated requirement, HACG, shall consider all relevant factors, which include:

**4.7.1** The ability of other bidders/proposers in meeting the Project Specific requirement(s) may be considered.

**4.7.1.1** A contact log showing the name, address, and contact (phone or email) used to contact the proposed self-certified subcontractors, nature of work requested for quote, date of contact, person making the effort;

**4.7.1.2** The description of work for which a quote was requested;

**4.7.1.3** The amount of the quote given, if one was obtained;



# Contract Inclusion Participation Policy

---

**4.7.2** For contracts other than for construction related professional services, a signed letter of intent from all listed S&EB describing the work, materials, equipment, or services to be performed or provided by the S&EB and the agreed upon dollar value shall usually be due with the bid documents but in no event after the expiration of forty-eight hours after the submission of the bid.

**4.7.3** For construction related professional services contracts, the highest ranked proposer must deliver at the time of fee and contract negotiations, signed letters of intent between itself and the S&EB to be utilized. If the Procurement department finds that a bidder/proposer did not make sufficient efforts, HACG shall recommend that the bid/proposal be rejected. A bidder/proposer may protest this determination pursuant to HACG's existing bid protest procedures.

## **4.8 CONTINUING OBLIGATIONS OF S&EB AND GRADUATION**

The certification status of all S&EB shall be reviewed annually by the Program Coordinator through re-certification application.

**4.8.1** It is the responsibility of the S&EB to notify the HACG of any change in its circumstances affecting its continued eligibility.

**4.8.2** The S&EB that no longer meets certification may be terminated at any time.

**4.8.3** A firm, or qualifying individuals, who have participated in the S&EB requirement for a total of four years shall cease to qualify.

## **4.9 CONTRACT PERFORMANCE COMPLIANCE PROCEDURES**

**4.9.1** Upon award of a contract by HACG that includes Project Specific Requirement(s), the contractor shall provide a listing of all S&EB and any other subcontractors to be used in the performance of the contract, and subcontractor payment information to HACG with each request for payment submitted.

**4.9.2** The contractor cannot make changes to the Schedule of Participation or substitute subcontractors named in the Schedule of Participation without the prior written approval of HACG. Unauthorized changes or substitutions shall be a violation of this chapter, and may constitute grounds for rejection of the bid or proposal or cause termination of the executed contract for breach, the withholding of payment and/or subject the contractor to contract penalties or other sanctions.

**4.9.2.1** All requests for changes or substitutions of the subcontractors named in the Schedule of Participation shall be made in writing, and shall clearly and fully set forth the basis for the request. A contractor shall not substitute a subcontractor or perform the work designated for a subcontractor with its own forces unless and until HACG approves

# Contract Inclusion Participation Policy

---

such substitution in writing. A contractor shall not allow a substituted subcontractor to begin work until HACG have approved the substitution.

**4.9.2.2** The facts supporting the request must not have been known nor reasonably should have been known by either party prior to the submission of the Schedule of Participation. Bid shopping is prohibited. The contractor must bring this dispute to HACG for resolution.

**4.9.2.3** HACG's final decision whether to permit or deny the proposed substitution, and the basis therefore, will be communicated to the parties in writing.

**4.9.2.4** If HACG requires the substitution of a subcontractor listed in the Schedule of Participation, the contractor shall undertake reasonable efforts to fulfill the Schedule of Participation if the Project Specific Requirements would not otherwise be met. If the requirement(s) cannot be achieved after reasonable efforts have been made, the contractor may substitute with non- S&EB.

**4.9.3** If a Contractor plans to hire a subcontractor on any scope of work that was not previously disclosed in the Schedule of Participation, the contractor shall obtain the approval of HACG to modify the Schedule of Participation and must make reasonable efforts to ensure that S&EB have a fair opportunity to bid on the new scope of work.

**4.9.4** Changes to the scopes of work shall be documented at the time they arise, to establish the reasons for the change and the effect on achievement of the Project Specific Requirement(s).

## **4.10 S&EB AND PROGRAM ELIGIBILITY**

**4.10.1** Only businesses that meet the criteria of S&EB may self-certify for recognition. The entity has the burden of persuasion.

**4.10.2** Only an independent firm may self-certified as a S&EB. An independent business is one whose viability does not depend on its relationship with another firm. Recognition of an entity as a separate entity for tax or corporate purposes is not necessarily sufficient to demonstrate that a firm is independent. HACG must determine that an owner has an independent business in order to self-certify the business as a S&EB. In doing so, HACG will take into account all reasonable criteria for reviewing control of a business.

**4.10.3** S&EB's must self-certify their status annually.

**4.10.4** It is the responsibility of the S&EB to notify HACG of any change in its circumstances affecting its continued eligibility for the self-certification as a S&EB. Failure to do so may result in the firm's termination from any contract.

**4.10.5** HACG reserves the right to terminate all contracts with a firm that does not meet the eligibility criteria.

# Contract Inclusion Participation Policy

---

**4.10.6** There shall be no limit to the number of S&EB contracts awarded in one year to a self-certified firm provided the firm has the capacity to complete the work timely and on budget.

**4.10.7** Joint ventures between S&EB and non- S&EB are not eligible for the Program, unless they provide structured, detailed, mentoring opportunities, proof of which shall be provided to the HACG.

## 5.0 COUNTING SUBCONTRACTING PARTICIPATION OF HACG- S&EB

**5.1** The entire amount of that portion of a construction subcontract that is performed by the S&EB own forces shall be counted, including the cost of supplies and materials.

**5.2** If a firm ceases to self-certify, it will no longer qualify for the 10% S&EB contracting requirement.

## 6.0. PROJECT REQUIREMENTS

Project Specific Requirement(s) shall not be set on emergency contracts as defined by the HACG, although S&EB shall be considered for such sole-source or emergency procurements if qualified.

END OF SMALL AND EMERGING BUSINESSES POLICY PORTION

Section 3  
Policy  
Package  
(NEW RULE ONLY 24 CFR PART  
75)

# Contract Inclusion Participation Policy

---



THE HOUSING AUTHORITY OF THE CITY OF GOLDSBORO  
O:(919)-735-4226 | TDD/TTY: 919-587-9507 | F: 919-731-4402 | [HTTPS://WWW.HACG.ORG](https://www.hacg.org)  
700 NORTH JEFFERSON AVENUE  
GOLDSBORO, NC 27530                      PREPARED: AUGUST 23, 2021

## SECTION 3 COMPLIANCE POLICY, PROCEDURES, INSTRUCTIONS, AND FORMS

This packet is designed to comply with the New HUD Section 3 Final Rule issued September 29, 2020, and became effective November 30, 2020. Therefore, these documents and instructions are related to the “Hours Worked Benchmarks” as called for in the 24 CFR Part 75 regulation.

Every contractor and sub-contractor (with the exception of professional services) are required to work toward meeting the prescribed benchmarks as indicated on page 29 of this packet. There are no specific hiring or contracting goals under this new rule.

Most importantly, the rule does not require the hiring or contracting of any person or business that is not fully qualified to perform the work. However, the rule makes clear that HUD is intent on ensuring Section 3 persons employed under the new rule receive measurable and sustainable employment. Therefore, Section 3 employees can be counted for up to five full years from the date of certification or hire respectively.

If you should have any questions on this packet, please contact:

Thaddeus B. Washington  
Section 3 Coordinator  
(919) 735-4226 ext: 1402  
[twashington@hacg.org](mailto:twashington@hacg.org)

# Contract Inclusion Participation Policy

## GOVERNING PARTS OF THE SECTION 3 FINAL RULE TO THIS RECIPIENT

### Subpart A—General Provisions

§ 75.1 Purpose

§ 75.3 Applicability

§ 75.5 Definitions

### Subpart B—Additional Provisions for Public Housing Financial Assistance

75.9 Requirements.

75.11 Targeted Section 3 worker for public housing financial assistance.

75.13 Section 3 safe harbor.

75.15 Reporting.

75.17 Contract provisions.

### Subpart D—Provisions for Multiple Funding Sources, Recordkeeping and Compliance

75.31 Recordkeeping

\* Benchmarks

\* Contractor Acknowledgement

## SECTION 3 REQUIREMENTS

**Applicable to all contracts and agreements regardless of the dollar amount or contract duration**

Background - Section 3 of the Housing and Urban Development Act of 1968 (Public Law 90-448, approved August 1, 1968) (Section 3) was enacted to bring economic opportunities generated by certain HUD financial assistance expenditures, to the greatest extent feasible, to low- and very low-income persons residing in communities where the financial assistance is expended. Section 3 recognizes that HUD funds are often one of the largest sources of Federal funds expended in low- and very low-income communities and, where such funds are spent on activities such as construction and rehabilitation of housing and other public facilities, the expenditure results in economic opportunities. By directing HUD-funded economic opportunities to residents and businesses in the community where the funds are expended, the expenditure can have the dual benefit of creating new or rehabilitated housing and other facilities while providing opportunities for employment and training for the residents of these communities.

The Section 3 statute establishes priorities for employment and contracting for public housing programs and for other programs that provide housing and community development assistance. For example, the prioritization as it relates to public housing assistance places an emphasis on public housing residents, in contrast to the prioritization as it relates to housing and community development assistance, which places more emphasis on residents of the neighborhood or service area in which the investment is being made.

# Contract Inclusion Participation Policy

---

## Goldsboro Housing Authority Internal Hiring Procedure

For all positions at the authority, the human resources staff will include the Section 3 Individual Low-Income Person Self Certification form with the applications (virtually and paper) allowing each applicant to identify themselves accordingly. The completion of the form will remain voluntary and at the applicant's discretion.

Once all applications have been received and reviewed, the most desirous and qualified candidate will be progressed through the hiring process. The Section 3 status of the applicant will be considered only after the "Most Qualified" candidate has been determined.

If there are multiple and equally qualified persons, the Section 3 status and category of the applicant will be considered. The candidate with the highest Section 3 priority based on the 24 CFR Part 75.9(a)(2) will be offered the position.

All advertisements for positions with the authority will carry this wording:

*“This opportunity is covered under Section 3 of the HUD Act of 1968”*

## The Housing Authority of Goldsboro's Contractor Hiring Notice

The new final rule makes HUD's intentions very clear that a substantial number of hours worked by Section 3 and YouthBuild participants up to five years is the primary objective. In an effort to meet these benchmarks, every contractor and sub-contractor is required to provide adequate and reasonable notice of all opportunities to HACG staff of all employment, training, and contracting opportunities that arise in connection with the HACG contract. That notice must be prepared and provided by the hiring entity to HACG before any position or contract is awarded, so HACG can disburse the notice timely to its residents and other contractors covered under its full Contract Inclusion Participation Policy.

Please keep in mind, there are other requirements related to contracting with HACG far beyond the requirements of Section 3. Every contractor and sub-contractor must familiarize themselves with these other elements of contracting to ensure full compliance adherence. In some cases, a Section 3 Business, may also be a Minority- or Woman-Owned Business, small and emerging business, or Veteran-Owned business. Contractors will be allowed to layer these requirements in committing to, and fulfilling their full requirements.

Please familiarize yourself with the attached certification forms for Section 3 Businesses and Individual Employees. These forms must accompany your bids if counting these businesses/people respectively. Otherwise, the proper form must be attached with the Monthly Hours Worked Reporting form to convey new Section 3 contractors or employees added after the contract starts.

Every advertisement, flyer, posting, etc., must contain the following language:

*“This opportunity is covered under Section 3 of the HUD Act of 1968”*

# Contract Inclusion Participation Policy

## The Housing Authority of the City of Goldsboro's Contracting Procedure

For all advertised contracts let by the authority, the responsible staff will include the Section 3 Business Self Certification form and the Section 3 Individual Low-Income Self Certification form with the bid package (virtually and paper) allowing each respondent to identify themselves and their business accordingly. The completion of the forms will remain voluntary and at the respondent's discretion.

Once all responses have been received and reviewed, the most desirous and qualified business will be progressed through the contracting process. The Section 3 status of the respondent will be considered only after the "Most Qualified and Advantageous" respondent has been determined.

If there are multiple and equally qualified businesses, the Section 3 status and category of the business will be considered. The business with the highest Section 3 priority, based on the 24 CFR Part 75.9 (b)(2) will be awarded the contract. All other applicable procurement laws will be adhered to relative to contracting amounts. All advertisements for contracts with the authority will carry this wording:

**"This opportunity is covered under Section 3 of the HUD Act of 1968"**

## The Housing Authority of the City of Goldsboro's Internal Resident Training Procedure

For all resident training offered by the authority and its contractors, the staff will include the Section 3 Individual Low-Income Person Self Certification form with the training notice or upon the first day of training (virtually and paper) allowing each prospective trainee to identify themselves accordingly as public housing or Section 8. The completion of the form will NOT be voluntary as the prospective trainees will be allowed to attend based on their prioritization in the 24 CFR Part 75.9(a)(2).

If the training is being paid for with HUD Public Housing financial assistance, the training will be limited to authority residents and potentially voucher holders only.

All advertisements for training with the authority will carry this wording:

**"This opportunity is covered under Section 3 of the HUD Act of 1968"**

## § 75.1 Purpose

This part establishes the requirements to be followed to ensure the objectives of Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) (Section 3) are met. The purpose of Section 3 is to ensure that economic opportunities, most importantly employment, generated by certain HUD financial assistance shall be directed to low- and very low-income persons, particularly those who are recipients of government assistance for housing or residents of the community in which the Federal assistance is spent.



# Contract Inclusion Participation Policy

---

## § 75.3 Applicability

- (a) General applicability. Section 3 applies to public housing financial assistance and Section 3 projects, as follows:
- (1) Public housing financial assistance. Public housing financial assistance means:
    - (i) Development assistance provided pursuant to section 5 of the United States Housing Act of 1937 (the 1937 Act);
    - (ii) Operations and management assistance provided pursuant to section 9(e) of the 1937 Act;
    - (iv) The entirety of a mixed-finance development project as described in 24 CFR 905.604, regardless of whether the project is fully or partially assisted with public housing financial assistance as defined in paragraphs (a)(1)(i) through (iii) of this section.
  - (ii) The requirements in this part apply to an entire Section 3 project, regardless of whether the project is fully or partially assisted under HUD programs that provide housing and community development financial assistance.
  - (b) Contracts for materials. Section 3 requirements do not apply to material supply contracts.
  - (d) Other HUD assistance and other Federal assistance. Recipients that are not subject to Section 3 are encouraged to consider ways to support the purpose of Section 3.

Continued on Next Page

# Contract Inclusion Participation Policy

## § 75.5 Definitions

The terms HUD, Public housing, and Public Housing Agency (PHA) are defined in 24 CFR part 5. The also apply to this part: 1937 Act means the United States Housing Act of 1937, 42 U.S.C. 1437 et seq.

Contractor means any entity entering into a contract with:

- (1) A recipient to perform work in connection with the expenditure of public housing financial assistance or for work in connection with a Section 3 project; or
- (2) A sub-recipient for work in connection with a Section 3 project.

Labor hours means the number of paid hours worked by persons on a Section 3 project or by persons employed with funds that include public housing financial assistance.

Low-income person means a person as defined in Section 3(b)(2) of the 1937 Act.

Material supply contracts means contracts for the purchase of products and materials, including, but not limited to, lumber, drywall, wiring, concrete, pipes, toilets, sinks, carpets, and office supplies.

Professional services means non-construction services that require an advanced degree or professional licensing, including, but not limited to, contracts for legal services, financial consulting, accounting services, environmental assessment, architectural services, and civil engineering services.

Public housing financial assistance means assistance as defined in § 75.3(a)(1).

Public housing project is defined in 24 CFR 905.108.

Recipient means any entity that receives directly from HUD public housing financial assistance or housing and community development assistance that funds Section 3 projects, including, but not limited to, any State, local government, instrumentality, PHA, or other public agency, public or private nonprofit organization.

Section 3 means Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u).

Section 3 business concern means:

- (1) A business concern meeting at least one of the following criteria, documented within the last six-month period:
  - (i) It is at least 51 percent owned and controlled by low- or very low-income persons;
  - (ii) Over 75 percent of the labor hours performed for the business over the prior three-month period are performed by Section 3 workers; or
  - (iii) It is a business at least 51 percent owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing.
- (2) The status of a Section 3 business concern shall not be negatively affected by a prior arrest or conviction of its owner(s) or employees.
- (3) Nothing in this part shall be construed to require the contracting or subcontracting of a Section 3 business concern. Section 3 business concerns are not exempt from meeting the specifications of the contract.

Section 3 project means a project defined in § 75.3(a)(2).

# Contract Inclusion Participation Policy

## § 75.5 Definitions Continued

Section 3 worker means:

Any worker who currently fits or when hired within the past five years fit at least one of the following categories, as documented:

- (i) The worker's income for the previous or annualized calendar year is below the income limit established by HUD.
- (ii) The worker is employed by a Section 3 business concern.
- (iii) The worker is a YouthBuild participant.

(2) The status of a Section 3 worker shall not be negatively affected by a prior arrest or conviction.

(3) Nothing in this part shall be construed to require the employment of someone who meets this definition of a Section 3 worker. Section 3 workers are not exempt from meeting the qualifications of the position to be filled.

Section 8-assisted housing refers to housing receiving project-based rental assistance or tenant-based assistance under Section 8 of the 1937 Act.

Service Area or the Neighborhood of the project refers to The Housing Authority of the City of Goldsboro's Service Area or the area composed of the legal boundaries of Goldsboro, NC. This may include the appropriate MSA area as applicable.

Small PHA means a public housing authority that manages or operates fewer than 250 public housing units.

Subcontractor means any entity that has a contract with a contractor to undertake a portion of the contractor's obligation to perform work in connection with the expenditure of public housing financial assistance or for a Section 3 project.

Sub-recipient has the meaning provided in the applicable program regulations or in 2 CFR 200.93.

Targeted Section 3 worker has the meanings provided in § 75.11, 75.21, or 75.29, and does not exclude an individual that has a prior arrest or conviction.

Very low-income person means the definition for this term set forth in section 3(b)(2) of the 1937 Act.

YouthBuild programs refers to YouthBuild programs receiving assistance under the Workforce Innovation and Opportunity Act (29 U.S.C. 3226).

# Contract Inclusion Participation Policy

---

## § 75.9 Requirements - (a) Employment and Training.

(1) Consistent with existing Federal, state, and local laws and regulations, PHAs or other recipients receiving public housing financial assistance, and their contractors and subcontractors, must make their best efforts to provide employment and training opportunities generated by the public housing financial assistance to Section 3 workers.

(2) PHAs or other recipients, and their contractors and subcontractors, must make their best efforts described in paragraph (a)(1) of this section in the following order of priority:

- (i) To residents of the public housing projects for which the public housing financial assistance is expended;
- (ii) To residents of other public housing projects managed by the PHA that is providing the assistance or for residents of Section 8-assisted housing managed by the PHA;
- (iii) To participants in YouthBuild programs; and
- (iv) To low- and very low-income persons residing within the metropolitan area (or nonmetropolitan county) in which the assistance is expended.

(b) Contracting. (1) Consistent with existing Federal, state, and local laws and regulations, PHAs and other recipients of public housing financial assistance, and their contractors and subcontractors, must make their best efforts to award contracts and subcontracts to business concerns that provide economic opportunities to Section 3 workers.

(2) PHAs and other recipients, and their contractors and subcontractors, must make their best efforts described in paragraph (b)(1) of this section in the following order of priority:

- (i) To Section 3 business concerns that provide economic opportunities for residents of the public housing projects for which the assistance is provided;
- (ii) To Section 3 business concerns that provide economic opportunities for residents of other public housing projects or Section-8 assisted housing managed by the PHA that is providing the assistance;
- (iii) To YouthBuild programs; and
- (iv) To Section 3 business concerns that provide economic opportunities to Section 3 workers residing within the metropolitan area (or nonmetropolitan county) in which the assistance is provided.

# Contract Inclusion Participation Policy

## § 75.11 Targeted Section 3 worker for Public Housing Financial Assistance.

(a) Targeted Section 3 worker. A Targeted Section 3 worker for public housing financial assistance means a Section 3 worker who is:

(1) A worker employed by a Section 3 business concern; or

(2) A worker who currently fits or when hired fit at least one of the following categories, as documented within the past five years:

(i) A resident of public housing or Section 8-assisted housing;

(ii) A resident of other public housing projects or Section 8-assisted housing managed by the PHA that is providing the assistance; or

(iii) A YouthBuild participant.

## § 75.15 Reporting. (See [Benchmarks on page 29](#))

(a) Reporting of labor hours. (1) For public housing financial assistance, PHAs and other recipients must report in a manner prescribed by HUD:

(i) The total number of labor hours worked;

(ii) The total number of labor hours worked by Section 3 workers; and

(iii) The total number of labor hours worked by Targeted Section 3 workers.

(2) Section 3 workers' and Targeted Section 3 workers' labor hours may be counted for five years from when their status as a Section 3 worker or Targeted Section 3 worker is established pursuant to § 75.31.

(3) The labor hours reported under paragraph (a)(1) of this section must include the total number of labor hours worked with public housing financial assistance in the fiscal year of the PHA or other recipient, including labor hours worked by any contractors and subcontractors that the PHA or other recipient is required, or elects pursuant to paragraph (a)(4) of this section, to report.

*If other mechanisms are needed toward awarding contracts or employing Section 3 persons, contact the person listed at the top of this document for suggestions.*

## § 75.17 Contract provisions

(a) PHAs or other recipients must include language in any agreement or contract to apply Section 3 to contractors.

(b) PHAs or other recipients must require contractors to include language in any contract or agreement to apply Section 3 to subcontractors.

(c) PHAs or other recipients must require all contractors and subcontractors to meet the requirements of § 75.9, regardless of whether Section 3 language is included in contracts.

# Contract Inclusion Participation Policy

## § 75.31 Recordkeeping

(b) Recipients must maintain documentation, or ensure that a subrecipient, contractor, or subcontractor that employs the worker maintains documentation, to ensure that workers meet the definition of a Section 3 worker or Targeted Section 3 worker, at the time of hire or the first reporting period, as follows:

(1) For a worker to qualify as a Section 3 worker, one of the following must be maintained:

- (i) A worker's self-certification that their income is below the income limit from the prior calendar year;
- (ii) A worker's self-certification of participation in a means-tested program such as public housing or Section 8-assisted housing;
- (iii) Certification from a PHA, or the owner or property manager of project-based Section 8-assisted housing, or the administrator of tenant-based Section 8-assisted housing that the worker is a participant in one of their programs;
- (iv) An employer's certification that the worker's income from that employer is below the income limit when based on an employer's calculation of what the worker's wage rate would translate to if annualized on a full-time basis; or
- (v) An employer's certification that the worker is employed by a Section 3 business concern.

(2) For a worker to qualify as a Targeted Section 3 worker, one of the following must be maintained:

(i) For a worker to qualify as a Targeted Section 3 worker under subpart B of this part:

- (A) A worker's self-certification of participation in public housing or Section 8-assisted housing programs;
- (B) Certification from a PHA, or the owner or property manager of project-based Section 8-assisted housing, or the administrator of tenant-based Section 8-assisted housing that the worker is a participant in one of their programs;
- (C) An employer's certification that the worker is employed by a Section 3 business concern; or
- (D) A worker's certification that the worker is a YouthBuild participant.

Benchmarks - For Section 3 projects, the proposed benchmark notification set the same benchmarks but with regards to the project itself rather than the recipient's fiscal year. The proposed benchmark notification provided that recipients would meet the safe harbor in the new §75.13 by certifying to the prioritization of effort in the new §75.9 and meeting or exceeding Section 3 benchmarks for total number of labor hours worked by Section 3 workers and by Targeted Section 3 workers. **Simply stated, the agency needs to meet these two benchmarks annually in order to be in compliance.**

$$\frac{\text{Section 3 Workers Labor Hours}}{\text{Total Labor Hours for the Project}} = 20\% \quad \frac{\text{Section 3 Targeted Workers Labor Hours}}{\text{Total Labor Hours for the Project}} = 5\%$$

# Contract Inclusion Participation Policy

---

## SECTION 3 INDIVIDUAL LOW-INCOME PERSON SELF-CERTIFICATION FORM

---

*(In compliance with Section 3 of the HUD Act of 1968 Updated 24 CFR Part 75 11/30/2020)*

The purpose of this form is to comply with Section 3 of the HUD Act of 1968 self-certification income requirements. To count as a Section 3 individual, any legal resident of the United States' annual income must not exceed the HUD income limits for the year before they were hired, or, the individual's current year income annualized for the year you are being confirmed as low-income.

Printed Name: \_\_\_\_\_

Street Address (Not a PO Box)      Apt#      City      State      Zip

Phone #: \_\_\_\_\_ Email: \_\_\_\_\_

To qualify as a Section 3 Person, you must meet one of the standards in the left side box and your total annual income does not exceed the number in the right side box below.

<p>Check only one line below that describes your housing situation:</p> <p><input type="checkbox"/> I reside in Public Housing, or Section 8 housing managed by the HACG</p> <p><input type="checkbox"/> My employer will certify that I am employed by a Section 3 business</p> <p><input type="checkbox"/> I am a current YouthBuild participant</p> <p><input type="checkbox"/> I am a low or very low-income person that resides in the GHA MSA</p>	<p>My Individual Annual Income does not exceed: \$41,100*</p>
<p>NOTE: The Goldsboro, NC MSA contains the following areas: Wayne County, NC</p>	

I hereby certify to the US Department of Housing and Urban Development (HUD) that all of the information on this form is true and correct. I attest under penalty of perjury that my total income is as shown above, and that proof of this information may be requested. If found to be inaccurate, I understand that I may be disqualified as an applicant and/or a certified Section 3 individual. Finally, I authorize including my name on a list of Section 3 Residents seeking employment and to include my contact information so that contractors may contact me directly for any employment opportunities.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\*Income limit must be changed annually to reflect the project state/county for one person at 80%. Search income limits here: <https://www.huduser.gov/portal/datasets/il.html>

# Contract Inclusion Participation Policy

---

## THE HOUSING AUTHORITY OF THE CITY OF GOLDSBORO'S SECTION 3 BUSINESS SELF-CERTIFICATION FORM

---

*(In compliance with Section 3 of the HUD Act of 1968 Updated 24 CFR Part 75 11/30/2020)*

The purpose of this form is to comply with Section 3 of the HUD Act of 1968 Business Certification requirements. To count as a Section 3 Business your company/firm must meet one of the listed categories below. Each category will require additional documentation to support the election. You must provide that supporting documentation with this form to be properly and completely confirmed as a Section 3 business. If this form is submitted without the required supplemental data, your certification will not be processed.

Section 3 Business Category	Additional Required Data	"X" Your Election
It is at least 51 percent owned by low- or very low-income persons. This business must be in existence for a minimum of six months.	Proof of ownership showing all owners and their percentages and a completed Section 3 Individual Self-Certification form for all low- and very low-income owners	
Over 75 percent of the labor hours performed for the business are performed by low- or very low-income persons; or	Provide the last 90 days full payrolls for the entire company, make a list of the names from the payrolls of the Section 3 workers, and provide a completed Section 3 Individual Self-Certification for all low- and very low-income workers you list	
It is a business at least 51 percent owned by current public housing residents or residents who currently live in Section 8-assisted housing. This business must be in existence for a minimum of six months.	Proof of ownership showing all owners and their percentages and a Section 3 Individual Self-Certification form for all public housing and/or Section 8 owners	

I hereby certify to the US Department of Housing and Urban Development (HUD) that all of the information on this form is true and correct. I attest under penalty of perjury that my business meets the elected definition and understand proof of this information will be requested. If found to be inaccurate, I understand that I may be disqualified as a certified Section 3 business.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date



# Contract Inclusion Participation Policy

## THE HOUSING AUTHORITY OF THE CITY OF GOLDSBORO'S SECTION 3 HOURS WORKED REPORTING FORM

(In compliance with Section 3 of the HUD Act of 1968 Updated 24 CFR Part 75 11/30/2020)

The purpose of this form is to comply with Section 3 of the HUD Act of 1968 tracking of hours worked by all persons employed by \_\_\_\_\_ (company name) on the \_\_\_\_\_ contract including those meeting the Section 3 income requirements as low- or very low-income. To count as a Section 3 individual, any legal resident of the United States' annual income must not exceed the HUD income limits for the year before they were hired, or, the individual's current year income annualized for the year you are confirming they are low-income. If your company employs any person you believe is low income now or was when they were hired within the past five years, please have them complete the "SECTION 3 INDIVIDUAL LOW-INCOME PERSON SELF-CERTIFICATION FORM" and return it immediately. Please keep in mind the annual benchmark requirements for this agency are:

- 20% of the total labor hours worked by everyone employed under the project must be worked by Section 3 Workers (Defined as the low and very low-income people in your project service area)

And

- 5% of the total labor hours worked by everyone employed under the project must be worked by Targeted Section 3 Workers (Defined as Public Housing and Section 8 Assisted persons in your project service area)

Therefore, we are interested in identifying as many people Section 3 workers as possible that will allow us to count their hours toward the benchmarks. However, all hours worked by everyone on the project must be reported monthly by the 10th day to:

Thaddeus B. Washington, Section 3 Coordinator  
(919) 735-4226 ext: 1402  
twashington@hacg.org

Official Hours Worked for the Period of \_\_\_\_\_ 20\_\_\_\_ - \_\_\_\_\_ 20\_\_\_\_

1. Total Hours Worked by all NON-Section 3 contract/project staff (Not Back-office) \_\_\_\_\_
2. Total Hours Worked by All Section 3 staff *Non-Targeted* \_\_\_\_\_ (Low Income person residing in the MSA)
3. Total Hours Worked by All Section 3 staff *Targeted* \_\_\_\_\_ (Public Housing, Section 8, and YouthBuild)

Please list the names and hours worked by each Section 3 Worker individually below or on a separate sheet.

First Name	Last Name	Total Hours This Period Only
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

# Contract Inclusion Participation Policy

---

## Contractor Acknowledgement and Affidavit

I hereby certify to the US Department of Housing and Urban Development (HUD) and The Housing Authority of the City of Goldsboro that I have read all of the information in this policy package and agree to follow the requirements for complying with the order of prioritization in 75.9 and reporting of all labor hours associated with my contract as required. I further understand that failure to comply with these requirements will cause my payments to be held and not processed or not released until I come into full compliance with this policy.

Monthly, I will be required to provide these data points for all contract staff working directly on the contract not including any back-office staff:

- Total Hours Worked by all employees (Section 3 and regular)
- Total Hours Worked by All Targeted Section 3 employees (Public Housing, Section 8, and YouthBuild)
- Total Hours Worked by All Non-Targeted Section 3 employees (Low Income persons residing in the MSA)

You will be required to list the names and hours worked by each Section 3 employee individually.

Signature:		Date Signed:
Print Name:	Title:	
Company Name:	Signers Email:	
Address		
Telephone Number		
Type of Business: (Check One): <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Sole Proprietorship <input type="checkbox"/> Other		

END OF SECTION 3 POLICY PORTION

### Major Employer Status

- Tier One-75% HACG Residents Employed Company-wide by Contractor
- Tier Two-50% HACG Residents Employed on one contract

# Contract Inclusion Participation Policy

---

## MAJOR EMPLOYER STATUS

(Preference for Employing Local HACG Residents)

---

Enhancing Local Hiring Preferences – Unlike MBE, WBE, and VOB requirements, Section 3 goals are based on geographic and income requirements. Therefore, if the real objective is to strengthen the local economy, it is recommended that the HACG consider and institute a policy greater than that of Section 3.

Because Section 3 clearly states it cannot conflict with any other federal, state, or local requirements/laws, or ordinances, it is best to have the HACG Board of Commissioners pass a Policy requirement that better meets the objectives of Local Hiring. The Policy below is modeled after that of the Cherokee Nation Indian Tribe of Oklahoma (The “Nation”). After considering the realities that Section 3 does not go far enough in achieving real preference for employers that hire and retain their tribal people, the Principle Chief developed and passed a Major Employer tier rule that gives local hiring Preference to its people under all contracting and training the “Nation” funds.

### THE MAJOR EMPLOYER STATUS FOR ALL CONTRACTING AND TRAINING

This policy is based on two simple and easy to follow Tiers for top Priority in awarding contracts.

Tier One (Highest Tier Achievable over all other requirements in this Contract Inclusion Participation Policy)

Any contractor or vendor that employs a minimum of *75% of its total employment workforce* of HACG residents, *MUST* receive the highest consideration, and if qualified, contract awarded for any contract in which it issues a qualified bid/proposal/requirements response to on any solicitation issued by HACG.

This contractor or vendor must maintain the minimum 75% HACG resident employee ratio throughout the entire issued and awarded contract or risk being terminated for breach of contract. All new hiring of the HACG residents must be completed within 5 business days of contract award notice. No work shall proceed until all 75% of the workforce are in place and verified by the HACG staff.

The successful respondent must provide the HACG a list of all employees in the company with current names, addresses, and contact information for periodic, unannounced, verification.

This status must be restated and verified with all new responses prior to contract award.

Tier Two (Second Highest Tier Achievable over all other requirements in this Contract Inclusion Participation Policy)

Any contractor or vendor that employs a minimum of *50% of its total project-employment workforce* of HACG residents, *MUST* receive the second-highest consideration, and if qualified, contract awarded for

# Contract Inclusion Participation Policy

---

any contract in which it issues a qualified bid/proposal/requirements response to any solicitation issued by the HACG.

If there is no Tier One respondent in any solicitation by the HACG, this shall become the highest tier for contract awards.

This contractor or vendor must maintain the minimum 50% HACG resident project-specific employee ratio throughout the entire issued and awarded contract or risk being terminated for breach of contract. All new hiring of the HACG residents must be completed within 5 business days of contract award notice. No work shall proceed until all 50% of the project workforce are in place and verified by the HACG staff.

The successful respondent must provide the HACG a list of all employees for the project with current names, addresses, and contact information for periodic, unnoticed, verification. If any project staff are removed or leave for any reason, the contractor/vendor will have five working days to replace them to maintain the required 50% the HACG resident employee status.

This status must be restated and verified with all new responses prior to contract award.

## PENALTIES FOR LOCAL HIRING NON-COMPLIANCE

It is best to demonstrate the seriousness of this Priority Preference by also ensuring against fraud and misrepresentation by contractors and vendors seeking this designation. Therefore, any time a contractor knowingly or unknowingly misrepresents, falsifies, or otherwise is deceitful in the representations of its qualification for either Tier One or Tier Two Major Employer Status, the penalty will be immediate termination of contract and a three (3) year suspension from being awarded any direct prime contract or performing any sub-contract funded whole or in part by the HACG. Beyond the termination and suspension, the contractor or vendor will not be eligible to work on any project the HACG is partnered in regardless of the financial investment made by the HACG in the project for the same three (3) year period following the contract termination. This includes all affiliates created by the HACG for the purpose of reinvesting in or redeveloping housing owned whole or in part by the HACG.

END OF THE MAJOR EMPLOYER STATUS POLICY PORTION

## Veteran-owned Businesses

The state of North Carolina boasts it is the most veteran friendly state and the HACG recognizes and respects the men and women who have given so much to our country and community. Therefore, HACG is excited to establish a solid and initial 10% of our total contracting dollars annually as a goal just for Veteran- Owned Businesses.

A veteran-owned business (VOB) is any legally formed business that is owned, operated and controlled at a minimum of 51% by a United States Veteran of any of the Armed Services including the National Guard. Verification of such status will be requested by way of the DD 214 paperwork from the contractor or other such verifying data or document(s) provided by the contractor. All documents are subject to third party verification at the discretion of the HACG.

This means that for every \$100 contracted annually by the HACG, \$10 needs to awarded to a VOB to the greatest extent feasible. Because VOB's can also be counted under other designated categories within this policy, it will be an acceptable practice for any contractor/vendor to layer priority and preference categories and designations.

Example: A Woman Veteran which also owns her business may be counted as a VOB and WBE simultaneously for dollars awarded under any contract or contracts. If the woman is also a minority, her business could be triple counted accordingly as VOV, WBE, and MBE. Depending on the business size and years in business, her business may meet several categories which demonstrates a greater success rate for the HACG and that business.

## Special Population Employers/Contractors/ Vendor Groups and Organizations

Every community in America is experiencing similar challenges with drug addiction, criminal activity, and mental health crisis. To that end, and to combat these challenges, many non-profit businesses and groups have risen to the challenge of working with these populations to help them find employment, and job training as part of their reconditioning and reintroduction into society.

The HACG recognizes these non-profits and their missions as many residents have been touched by these issues. So as a means of providing impact and priority to the businesses operated by these groups, the HACG is creating a special category of contracting priority and requirements to ensure their viable participation in the normal HACG contracting universe.

The HACG is hereby establishing an annual goal of 5% of total contract awards requirement for all contracts in excess of \$50,000 where a service that is provided by a locally based qualified non-profit organization performs services or offers materials meeting normal acceptable tolerances for the purpose intended.

To the extent the non-profit is not a 501(c)3 recognized by the IRS, it must submit a complete statement of the organizations purpose and accounting of grant dollars received and other funds paid for services within the past twelve months. To the extent the organization cannot provide any of the above, the HACG CEO will make a written determination of the entity's viability as a true community-based group/organization supporting one of the core concerns listed:

- Drug Rehabilitation and Treatment
- Employment, Employment Readiness/Skills Training and/or Housing of persons recently released from incarceration (*Non-Sexual Offenders only will be allowed to work on the HACG contracts due to HUD restrictions and resident safety*).
- All Mental Health/Vocational Rehabilitation

This will include all institutions of higher education for persons of color where at-risk youth are being served.