



Quotations for Small Purchases (QSP) Solicitation No. 24-0416 HAWS  
Tree Pruning Piedmont

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Quotations for Small Purchases (QSP)  
Solicitation No. 24-0416 Tree Pruning Piedmont  
April 16, 2024

**PROCEDURE: Quoters must submit proposed pricing where provided on the last page of this form only! The HA will accept the proposed pricing in person, by fax, email or by mail delivery only! The HA will NOT accept proposed pricing verbally or by telephone!**

- 1.0 HA CONTACT: All questions pertaining this QSP shall be addressed to [Miguel Acosta](mailto:macosta@haws.org) (hereinafter, the Procurement Manager or PM), 500 West 4<sup>th</sup> Street, Suite 300 Winston-Salem, NC 27101, Telephone: [336-917-6085](tel:336-917-6085); Fax: 336-917-6085 or e-mail: [macosta@haws.org](mailto:macosta@haws.org).
- 2.0 APPLICABILITY: By submitting a quote to the HA, the firm or individual doing so (hereinafter, "the quoter") is automatically agreeing to abide by all terms and conditions listed herein, including those terms and conditions within the HUD documents, *Table 5.1 Mandatory Contract Clauses for Small Purchases Other than Construction*, and *HUD-5370-C General Conditions for Non-Construction Contracts Section II - (With Maintenance Work)*, which are attached hereto.
- 3.0 HA RESERVATION OF RIGHTS: The HA reserves the right to:
  - 3.1 Reject any or all quotes, to waive any informalities in the QSP process, or to terminate the QSP process at any time, if deemed by the HA to be in the best interest of the HA;
  - 3.2 Terminate a contract awarded pursuant to this QSP at any time for its convenience upon delivery of a 10-day written notice to the apparent or successful quoter;
  - 3.3 Determine the days, hours and locations that the successful quoter shall provide the items or services called for in this QSP;
  - 3.4 Reject and not consider any quote that does not, in the opinion of the PM meet the requirements of this QSP, including but not necessarily limited to incomplete quotes offering alternate (not including "or equal" items) or non-requested items or services;
- 4.0 QUOTER'S RESPONSIBILITY: Each quoter must carefully review and comply with all instructions provided herein, provided within any named attachments.
- 5.0 DEADLINE: Each quoter shall submit his/her proposed costs, prior to the posted deadline, as provided for herein. Whereas this is an informal solicitation process, the HA reserves the right to extend the posted deadline at any time prior to the deadline, if, in the opinion of the PM it is in the best interests of the HA to do so.



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All QSPs are due Tuesday, May 7, 2024 at 2:00 PM. All bidders are responsible for familiarizing themselves with the site and scope of work. Last day for questions is Tuesday, April 30, 2024 at 2:00pm. All questions must be submitted to Miguel Acosta in writing at [macosta@haws.org](mailto:macosta@haws.org). Your quote will be valid for 120 days.

- 6.0 HOLD PRICES/NON-ESCALATION: By submitting a quote, and whereas the quote sum submitted is a firm-fixed quote, each quoter thereby agrees to "hold" or not increase the proposed quote prices during the term of the work.
- 7.0 PURCHASE ORDER (PO): The HA will procure the applicable goods or services by issuance of a PO (which shall have the same meaning as a "contract"). PO's will be issued on an as-needed basis only. By submitting a quote, the successful quoter thereby agrees to confirm receipt of the PO in the manner directed by the HA.
  - 7.1 AWARD CRITERIA: If an award is completed pursuant to this QSP, and unless otherwise instructed in writing by the PM, award shall be made to the responsive and responsible quoter that submits the lowest cost. **ATTENTION: This Contract Services will begin with Noticed To Proceed (NTP).**
- 8.0 INVALID OR ALTERNATE QUOTES: Failure to complete and submit all required information, or to add any additional requirements not acceptable to the HA, may invalidate the quote submitted. Furthermore, the HA shall reserve the right to reject, without consideration, alternate quotes, meaning those that do not meet the requirements of this QSP.
- 9.0 QUOTE COSTS: There shall be no obligation for the HA, to compensate any quoter or prospective quoter for any costs that he/she may incur in responding to this QSP.
- 10.0 SHIPPING COSTS: Each quoted sum submitted shall include completion of the specified services at the HA site or location, as specified within this QSP or on the PO issued.
- 11.0 ASSIGNMENT OF PERSONNEL: The HA shall retain the right to demand and receive a change in personnel assigned by the successful quoter to provide services to the HA if the HA believes that such change is in the best interest of the HA and the completion of the work or provision of the items.
- 12.0 UNAUTHORIZED SUB-CONTRACTING PROHIBITED: The successful quoter shall not assign any right, nor delegate any duty for the work proposed pursuant to this QSP (including, but not limited to, selling or transferring the ensuing PO or contract) without the prior written consent of the PM. Any purported assignment of interest or delegation of duty, without the prior written consent of the PM, shall be void and may result in the cancellation of the PO or the contract with the HA.
- 13.0 LICENSING AND INSURANCE REQUIREMENTS: Prior to award (but not as a part of the quote submission) the *successful quoter* will be required to provide:



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- 13.1 An original certificate evidencing the quoter's current industrial (worker's compensation) insurance carrier and coverage amount;
  - 13.2 An original certificate evidencing General Liability coverage, naming the HA as an additional insured, together with the appropriate endorsement to said policy reflecting the addition of the HA as an additional insured under said policy (minimum of \$1,000,000 each occurrence, general aggregate minimum limit of \$1,000,000, together with damage to premises and fire damage of \$50,000 and medical expenses any one person of \$5,000), with a deductible of not greater than \$1,000;
  - 13.3 An original certificate showing the quoter's automobile insurance coverage in a combined single limit of \$500,000. For every vehicle utilized during the term of this program, when not owned by the entity, each vehicle must have evidence of automobile insurance coverage with limits of no less than \$50,000/\$100,000 and medical pay of \$5,000;
  - 13.4 A copy of the quoter's license issued by the State of North Carolina licensing authority allowing the quoter to provide the services detailed herein if required.
- 14.0 All of the following forms listed in Sections 14.1 through 14.9 apply to this QSP (PLEASE NOTE: The following Section 14.4 only applies to this QSP and the ensuing award if the successful quoter will provide any work; meaning, the noted sections do not apply to this QSP or the ensuing award if the successful quoter is only providing materials, supplies, commodities, or equipment) and must be completed and returned with the bid submittal documents (except 14.6, 14.8 and 14.9):
- 14.1 The Form of Quote form;
  - 14.2 Attachment A Non-Collusive Affidavit Form;
  - 14.3 Attachment B, a copy of 24 CFR 135, commonly known as Section 3. The successful quoter hereby agrees to comply with all requirements of the HUD Section 3 Program as detailed therein. If a bidder chooses to certify as a Section 3 quoter, he/she shall receive the preference noted therein, if the required documentation is provided. In any case, the successful quoter shall be required to, as detailed therein, "to the greatest extent feasible . . . provide economic opportunities to low- and very-low income persons," meaning, if the successful quoter must hire anyone to help with the work, he/she must submit a work plan showing how he/she will give first preference to such jobs to Section 3 persons;
  - 14.4 Applicable HUD Forms (Attachment C HUD 5369-A, Attachment D- HUD 5369-B, Attachment E- HUD 5369-C)
  - 14.5 Attachment F- HUD 5370-CII; *General Conditions for Non-Construction Contract Section II- (With Maintenance work)*;
  - 14.6 Attachment G HUD Maintenance Wage Rate Determination;
  - 14.7 Attachment H Iran Divestment Act Certification
  - 14.8 Attachment I HUD Table 5.1



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14.9 The HA reserves the right to require the successful quoter/contractor to utilize any form required by HUD to complete the required work and by submitting his/her quote each contractor agrees to do so at no additional charge.

15.0 Technical Specifications or Statement of Work (SOW) that applies to this QSP are on the next page.

**All work to be performed in accordance with all applicable local, state and federal; property rehabilitation standards and/or manufacturer's specifications; and the following specifications. Contractor is responsible for all necessary permits, fees and licensing. Please see the next page for the scope of work. Please use all Key Notes, General Notes and other scope of work identifier information to base your quote. If you have any questions about the scope of work, please submit them to [macosta@haws.org](mailto:macosta@haws.org) via email by **4/30/2024 @ 2:00 pm** and the answers will be provided in an addendum to all quoters.**



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**Statement of Work:**

**16.0 - GENERAL DESCRIPTION**

16.1 Furnish and install all products and services to complete the high quality tree pruning services for the Piedmont Park in Winston-Salem, NC The site is 26.83 acres and the scope effects approximately 70 trees . The professional tree company will be fully licensed, insured and have a trained arborist on staff.

**17.0 QUALITY ASSURANCE**

- 17.1 The work in this section shall be subject to all applicable provisions of governing building codes and ordinances.
- 17.2 All workmanship will be carried out to the highest standard and great care taken to create minimal disruption to tenants/guests of these locations.
- 17.3 For occupied units and buildings, the work shall be planned and staged in close cooperation with the tenants and Housing Authority of W-S.
- 17.4 Staff: Contractors staff and personal shall adhere to the Housing Authority of W-S Contractors Code of Conduct at all times. Workmen shall be restricted from all buildings/areas other than those in which work is being conducted.
- 17.5 Work Area: The contractor shall maintain work areas in a clean and tidy condition at all times. Staff will check into the site office each work day before starting work. Upon completion of the work, all tools, material and debris shall be removed from the site of the work by contractor.
- 17.6 Contractor shall comply with all recommendations and requirements for accident prevention of the Associated General Contractors of America and United States Standards Association Standard A10.2
- 17.7 All work to be in full compliance with the "504" handicap requirements and the latest edition of the "Uniform Federal Accessibility Standards".
- 17.8 All surfaces including factory finished and job finished items shall be clean and not marred upon delivery to building/ to owner. Contractor shall without extra compensation, refinish all such surfaces proven to have been inadequately protected and damaged.
- 17.9 All contractors' employees must wear a clearly displayed photo identification or uniform showing the company represented. Any identification will be provided by the Contractor at the Contractor's cost.

**18.0 SUBMITTALS**

- 18.1. Construction Schedule and Schedule of Values.
- 18.2 Product Data: Submit manufacturer's product specifications, performance data sheets and installation instructions.
- 18.3 Shop Drawings: Submit plans, elevations, and details for work not fully shown by published product data; include rough in dimensions and service connection.



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**19.0 PRODUCT DELIVERY, STORAGE AND HANDLING**

- 19.1 Protection: Equipment shall be protected at all times from physical damage, dirt, water etc.
- 19.2 Under no condition shall compactor/dumpsters be used for construction trash, or any other use other than what it was intended for.
- 19.3 Protection: Contractor is responsible for protection/security of all material and equipment brought to the site.

**20.0 PRODUCTS**

- 20.1 Scope of work includes the pruning for Crown Elevation and lifting, removal of the lower branches for clearance, removal of overweight branches, dead branches and Crown reduction of tops, sides or individual limbs. The under clearance for branches will be twenty (20) feet above finish grade. Pruning shall be completed in a manner that no branches contact the building structures, roofing, gutters, fencing and/or impedes walkways and driveways. The contractor's ISA certified arborist will oversee pruning to be conducive to promote good tree health and also be proportionally balanced. When arbor culturally appropriate, tree wound paint (specially formulated for this application) will be used to protect trees from the spread of pathogens and use disinfectant on tree cutting equipment
- 20.2 All wood waste and debris produced under this contract shall be removed by the Contractor the same day it is produced. When equipment or vehicles are used on turf or on the tree root zones the Contractor shall use ground protection equipment to protect soil from compaction and turf damage. Any damage shall be repaired by the Contractor at no cost to the agency, to include tire rut repair with top soil, over seeding and stabilization/straw.
- 20.3 Most trees are Willow oaks also known as pin oak, peach oak and swap chestnut oak. The count is approximately 75 trees that need to be addressed  
The list/ count may not be all-inclusive based upon the contractors/arborist's professional recommendations and expertise.

**21. INSPECTION**

- 21.1 Inspect the areas and conditions under which units are to be installed. Do not proceed with the work until conditions are satisfactory. Contractor will have all utilities located with proper lead time before any excavation proceeds.
- 21.2 Contractor is responsible for all final measurements, counts, equipment verification and a site visit strongly recommended prior to bidding.
- 21.3 The contractor is responsible for all licenses and permits required to complete this work and submit a copy of all inspections: rough, finish to include the Final Certificate of Occupancy if applicable. The contractor will provide all materials and labor to complete the work to the satisfaction of the Housing Authority of the City of Winston-Salem





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**22.0 INSTALLATION**

- 22.1 All material shall be installed in accordance with approved drawings.
- 22.2 Field assembly work: perform minor field assembly work to install certain fragile or projecting parts that were not installed at the factory.
- 22.3 Set each component of work securely and accurately, level and properly aligned with other components and other work. Anchor as required for secure and stabilized operation.

**23.0 PUNCH LIST**

- 23.1 All per-contract work has been performed, inspected and deemed as acceptable by the HAWS and all City-required mechanical inspection have been performed up written Punch list: At the point of substantial completion, contractor shall request a written punch list from assigned Housing Authority of W-S project Manager/Construction Inspector (NOTE: the term "substantial completion" to mean that to including "FINAL" inspections).
- 23.2 Punch list Completion: Perform all punch list work in a timely manner and notify the HAWS Project Manager/Director upon completion. Director to verify completion of punch list and work

**24.0 TESTING AND INSTRUCTIONS**

- 24.1 Test each item of operational equipment. Provide maintenance manual.
- 24.2 Instruct owner's operation personnel in proper use and maintenance.
- 24.3 Provide all pertinent warranty information to owner.
- 24.4 The contractor will be responsible for and pay all costs for repairing and making good any damage to any HAWS property or adjacent properties caused by the contractor or their agents in fulfilling the terms of this work.

**24.0 FINAL CLEANING**

- 25.1 Interior and Exterior: Contractor will perform final cleaning per the following. Removal and disposal of all debris/trash form the site to include raking of work area and clearing all debris from sidewalks, roadways, planting beds, roofs and gutters...
- 25.2 Contractor shall remove all safety barriers, unused materials, rubbish of every kind from jobsite and/or adjacent property leaving area in a neat and clean condition acceptable to the project manager and all agents of the Housing Authority.



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FORM OF QUOTE

Each quoter shall submit his/her quote on this form only, which shall be completed and returned to the HA as detailed herein. Submit Quote in words and numbers. In the event of discrepancies, words shall prevail.

Item No.	Description: Tree Pruning Piedmont	Total Cost
1	Tree Pruning Piedmont	\$

The undersigned quoter hereby quotes the above amounts to complete the required work (print clearly and legibly!). Further, by submitting this quote, the undersigned quoter agrees to abide by all terms and conditions listed within any document issued by the HA pertaining to this issue.

COMPLETED BY:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

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



**Attachment A**

**Non-Collusive Affidavit Form**

**QSP Non-Collusive Affidavit Form**  
Procurement Department

Below is an affidavit and will provide evidentiary proof the undersigned QUOTER agrees and certifies they have NOT entered into any collusion with any other individual or other QUOTER submitting a response for the QSP. The undersigned QUOTER further agrees and certifies, they are NOT in collusion with the Housing Authority of the City of the Winston-Salem (the "Authority"), its employees, representatives, agents or any member of the Board of Commissioners.

STATE OF NORTH CAROLINA  
CITY OF WINSTON-SALEM  
FORSYTH COUNTY

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(Legal Name and Address of the Bidder)

are being first duly sworn, deposed and says, they are:

---

(Legal Name and Address of the Bidder)

The party submitting the foregoing Bid Response, that such QUOTE Response is genuine and NOT collusive or that said QUOTER has NOT colluded, conspired, connived or agreed, directly or indirectly, with any QUOTER or individual, to put in a sham QUOTE Response or to refrain from QUOTING and has NOT in any manner, directly or indirectly sought by agreement or collusion or communication or conference, with any individual, to fix the QUOTE Response price of affiants or of any other QUOTER, to fix overhead, profit to price and cost element of said QUOTE Response price or that of any other or to secure any advantage against the Authority or any individual interested in the Contract award and all statements in the QUOTE Response are true.

**Corporate Seal:**

Signature of:

---

(Legal Company Name of Sole Proprietor)

---

(Legal Company Name of Partnership)

---

(Authorized Representative of Corporation)

Subscribed and sworn to before me this \_\_\_\_\_  
day of \_\_\_\_\_, 20\_\_.  
My Commission Expires on:

---

\_\_\_\_\_ .  
(Date)

---

(Signature of the Notary Public)

**Attachment B**

**Section 3 Forms**

## Section 3 Business Preference Submittal Form

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

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

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

TYPE OF BUSINESS:     Corporation     Partnership     Sole Proprietorship     Joint Venture

Attached is the following documentation as evidence of status:

**Not claiming Section 3 business preference (skip the following questions and pages of the form and sign below)**

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

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

**For the business entity as applicable:**

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

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

List of subcontracted Section 3 business and subcontract amount

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

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

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

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

**Corporate Seal**

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

\_\_\_\_\_  
Notary

\_\_\_\_\_  
Title

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

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

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

**SUGGESTED AFFIRMATIVE ACTION PLAN FOR UTILIZATION OF PROJECT AREA BUSINESSES**

Number Of All Contracts Proposed: \_\_\_\_\_

Name Of Company: \_\_\_\_\_

Dollar Value Of All Contracts Proposed: \_\_\_\_\_

Project: \_\_\_\_\_

To The Greatest Extent Feasible, Contracts Will Be Awarded Through Negotiation Or Bid To Qualified Project Area Businesses.

Goal of These Contracts for Project Area Businesses:

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

Outline The Program To Achieve These Goals For Economically And Socially Disadvantaged:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**NOTE: To Complete The Affirmative Action Plan, Follow Steps Outlines In Attached Exhibit.**

(INSERT THIS DOCUMENT IN BID DOCUMENTS AND WITH BID)

DATE: \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

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

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

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

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

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

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

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

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

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

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



## SECTION 3 BUSINESS PREFERENCE CLAUSE

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

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

## **PREFERENCE FOR SECTION 3 BUSINESS CONCERNS IN CONTRACTING OPPORTUNITIES**

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

### **Priority I**

#### **Category 1a Business**

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

### **Priority II**

#### **Category 1b Business**

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

### **Priority III**

#### **Category 2a Business**

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

### **Priority IV**

#### **Category 2b Business**

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

### **Priority V**

#### **Category 3 Business**

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

### **Priority VI**

#### **Category 4a Business**

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

### **Priority VII**

#### **Category 4b Business**

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

### **Eligibility for Preference**

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

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

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

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

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

**Attachment C**

**HUD 5369-A**

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

# Representations, Certifications, and Other Statements of Bidders

## Public and Indian Housing Programs

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### 1. Certificate of Independent Price Determination

(a) The bidder certifies that--

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

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

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

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

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

(2) (i) Has been authorized, in writing, to act as agent for the following principals in certifying that those principals have not participated, and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above.

\_\_\_\_\_ [insert full name of person(s) in the bidder's organization responsible for determining the prices offered in this bid or proposal, and the title of his or her position in the bidder's organization];

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

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

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

[ ] [Contracting Officer check if following paragraph is applicable]

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

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

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

### 2. Contingent Fee Representation and Agreement

(a) Definitions. As used in this provision:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### 4. Organizational Conflicts of Interest Certification

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

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

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

#### 5. Bidder's Certification of Eligibility

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

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

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

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

#### 6. Minimum Bid Acceptance Period

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

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

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

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

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

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

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

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

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

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

(c) [ ] is, [ ] is not a minority business enterprise. "Minority business enterprise," as used in this provision, means a business which is at least 51 percent owned or controlled by one or more minority group members or, in the case of a publicly owned business, at least 51 percent of its voting stock is owned by one or more minority group members, and whose management and daily operations are controlled by one or more such individuals. For the purpose of this definition, minority group members are:

(Check the block applicable to you)

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

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

The bidder represents and certifies that it:

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

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

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

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

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

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

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

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

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

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

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

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

- (1) Obtain identical certifications from the proposed subcontractors;
- (2) Retain the certifications in its files; and
- (3) Forward the following notice to the proposed subcontractors (except if the proposed subcontractors have submitted identical certifications for specific time periods):

**Notice to Prospective Subcontractors of Requirement for Certifications of Nonsegregated Facilities**

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

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

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

The bidder certifies that:

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

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

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

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

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

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

**13. Bidder's Signature**

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

\_\_\_\_\_  
(Signature and Date)

\_\_\_\_\_  
(Typed or Printed Name)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Company Name)

\_\_\_\_\_  
(Company Address)



**Attachment D**

**HUD 5369-B**  
*Instructions to Offerors,*  
*Non-Construction*

# 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:]

**Attachment E**

**HUD 5369-C**  
***Certifications and***  
***Representations of***  
***Offerors, Non-***  
***Construction Contract***

# Certifications and Representations of Offerors

## Non-Construction Contract

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

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

### 1. Contingent Fee Representation and Agreement

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

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

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

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

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

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

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

For the purpose of this definition, minority group members are:  
(Check the block applicable to you)

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

### 3. Certificate of Independent Price Determination

(a) The bidder/offeror certifies that-

- (1) The prices in this bid/offer have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other bidder/offeror or competitor relating to (i) those prices, (ii) the intention to submit a bid/offer, or (iii) the methods or factors used to calculate the prices offered;
  - (2) The prices in this bid/offer have not been and will not be knowingly disclosed by the bidder/offeror, directly or indirectly, to any other bidder/offeror or competitor before bid opening (in the case of a sealed bid solicitation) or contract award (in the case of a negotiated solicitation) unless otherwise required by law; and
  - (3) No attempt has been made or will be made by the bidder/offeror to induce any other concern to submit or not to submit a bid/offer for the purpose of restricting competition.
- (b) Each signature on the bid/offer is considered to be a certification by the signatory that the signatory:
- (1) Is the person in the bidder/offeror's organization responsible for determining the prices being offered in this bid or proposal, and that the signatory has not participated and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above; or
  - (2) (i) Has been authorized, in writing, to act as agent for the following principals in certifying that those principals have not participated, and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above (insert full name of person(s) in the bidder/offeror's organization responsible for determining the prices offered in this bid or proposal, and the title of his or her position in the bidder/offeror's organization);  
(ii) As an authorized agent, does certify that the principals named in subdivision (b)(2)(i) above have not participated, and will not participate, in any action contrary to subparagraphs (a)(1) through (a)(3) above; and

- (iii) As an agent, has not personally participated, and will not participate in any action contrary to subparagraphs (a)(I) through (a)(3) above .
- (c) If the bidder/offeror deletes or modifies subparagraph (a)2 above, the bidder/offeror must furnish with its bid/offer a signed statement setting forth in detail the circumstances of the disclosure.

**4. Organizational Conflicts of Interest Certification**

- (a) The Contractor warrants that to the best of its knowledge and belief and except as otherwise disclosed, it does not have any organizational conflict of interest which is defined as a situation in which the nature of work under a proposed contract and a prospective contractor's organizational, financial, contractual or other interest are such that:
  - (i) Award of the contract may result in an unfair competitive advantage;
  - (ii) The Contractor's objectivity in performing the contract work may be impaired; or
  - (iii) That the Contractor has disclosed all relevant information and requested the HA to make a determination with respect to this Contract.
- (b) The Contractor agrees that if after award he or she discovers an organizational conflict of interest with respect to this contract, he or she shall make an immediate and full disclosure in writing to the HA which shall include a description of the action which the Contractor has taken or intends to eliminate or neutralize the conflict. The HA may, however, terminate the Contract for the convenience of HA if it would be in the best interest of HA.
- (c) In the event the Contractor was aware of an organizational conflict of interest before the award of this Contract and intentionally did not disclose the conflict to the HA, the HA may terminate the Contract for default.
- (d) The Contractor shall require a disclosure or representation from subcontractors and consultants who may be in a position to influence the advice or assistance rendered to the HA and shall include any necessary provisions to eliminate or neutralize conflicts of interest in consultant agreements or subcontracts involving performance or work under this Contract.

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

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

**6. Conflict of Interest**

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

**7. Offeror's Signature**

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

---

Signature & Date:

---

Typed or Printed Name:

---

Title:

---

**Attachment F**

**HUD 5370-CI and CII  
*General Conditions for  
Non-Construction  
Contracts Section I and  
Section II (With or  
Without Maintenance  
Work)***



# General Conditions for Non-Construction Contracts

## Section II – (With 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. 11/30/2023)

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 an applicant is not required to respond to a collection of information unless it displays a currently valid OMB control number.

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

- 1) Non-construction contracts (*without* maintenance) greater than \$150,000 - use Section I;
- 2) Maintenance contracts (including nonroutine maintenance as defined at 24 CFR 905.200) greater than \$2,000 but not more than \$150,000 - use Section II; and
- 3) Maintenance contracts (including nonroutine maintenance), greater than \$150,000 – use Sections I and II.

### Section II – Labor Standard Provisions for all Maintenance Contracts greater than \$2,000

#### 1. Minimum Wages

- (a) All maintenance laborers and mechanics employed under this Contract in the operation of the project(s) shall be paid unconditionally and not less often than semi-monthly, and without subsequent deduction (except as otherwise provided by law or regulations), the full amount of wages due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Housing and Urban Development which is attached hereto and made a part hereof. Such laborers and mechanics shall be paid the appropriate wage rate on the wage determination for the classification of work actually performed, without regard to skill. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein; provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination, including any additional classifications and wage rates approved by HUD under subparagraph 1(b), shall be posted at all times by the Contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.
- (b) (i) Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the Contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate only when the following criteria have been met:
  - (1) The work to be performed by the classification required is not performed by a classification in the wage determination;
  - (2) The classification is utilized in the area by the industry; and
  - (3) The proposed wage rate bears a reasonable relationship to the wage rates contained in the wage determination.
- (ii) The wage rate determined pursuant to this paragraph shall be paid to all workers performing work

in the classification under this Contract from the first day on which work is performed in the classification.

#### 2. Withholding of funds

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

#### 3. Records

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

#### 4. Apprentices and Trainees

- (a) Apprentices and trainees will be permitted to work at less than the predetermined rate for the work they perform when they are employed pursuant to and individually registered in:
  - (i) A bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration (ETA), Office of

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

- (ii) a trainee program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, ETA; or
- (iii) A training/trainee program that has received prior approval by HUD.

- (b) Each apprentice or trainee must be paid at not less than the rate specified in the registered or approved program for the apprentice's/trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Apprentices and trainees shall be paid fringe benefits in accordance with the provisions of the registered or approved program. If the program does not specify fringe benefits, apprentices/trainees must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification.
- (c) The allowable ratio of apprentices or trainees to journeyman on the job site in any craft classification shall not be greater than the ratio permitted to the employer as to the entire work force under the approved program.
- (d) Any worker employed at an apprentice or trainee wage rate who is not registered in an approved program, and any apprentice or trainee performing work on the job site in excess of the ratio permitted under the approved program, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed.
- (e) In the event OATELS, a state apprenticeship agency recognized by OATELS or ETA, or HUD, withdraws approval of an apprenticeship or trainee program, the employer will no longer be permitted to utilize apprentices/trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

**5. Disputes concerning labor standards**

- (a) Disputes arising out of the labor standards provisions contained in Section II of this form HUD-5370-C, other than those in Paragraph 6, shall be subject to the following procedures. Disputes within the meaning of this paragraph include disputes between the Contractor (or any of its subcontractors) and the HA, or HUD, or the employees or their representatives, concerning payment of prevailing wage rates or proper classification. The procedures in this section may be initiated upon HUD's own motion, upon referral of the HA, or upon request of the Contractor or subcontractor(s).
  - (i) A Contractor and/or subcontractor or other interested party desiring reconsideration of findings of violation by the HA or HUD relating to the payment of straight-time prevailing wages or classification of work shall request such reconsideration by letter postmarked within 30 calendar days of the date of notice of findings issued by the HA or HUD. The request shall set

forth those findings that are in dispute and the reasons, including any affirmative defenses, with respect to the violations. The request shall be directed to the appropriate HA or HUD official in accordance with instructions contained in the notice of findings or, if the notice does not specify to whom a request should be made, to the Regional Labor Relations Officer (HUD). The HA or HUD official shall, within 60 days (unless otherwise indicated in the notice of findings) after receipt of a timely request for reconsideration, issue a written decision on the findings of violation. The written decision on reconsideration shall contain instructions that any appeal of the decision shall be addressed to the Regional Labor Relations Officer by letter postmarked within 30 calendar days after the date of the decision. In the event that the Regional Labor Relations Officer was the deciding official on reconsideration, the appeal shall be directed to the Director, Office of Labor Relations (HUD). Any appeal must set forth the aspects of the decision that are in dispute and the reasons, including any affirmative defenses, with respect to the violations. The Regional Labor Relations Officer shall, within 60 days (unless otherwise indicated in the decision on reconsideration) after receipt of a timely appeal, issue a written decision on the findings. A decision of the Regional Labor Relations Officer may be appealed to the Director, Office of Labor Relations, by letter postmarked within 30 days of the Regional Labor Relations Officer's decision. Any appeal to the Director must set forth the aspects of the prior decision(s) that are in dispute and the reasons. The decision of the Director, Office of Labor Relations, shall be final.

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

**6. Contract Work Hours and Safety Standards Act**

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

- (a) **Overtime requirements.** No Contractor or subcontractor contracting for any part of the Contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.
- (b) **Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the provisions set forth in paragraph 6(a), the Contractor and any

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

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

## **7. Subcontracts**

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

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

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

**Attachment G**

**HUD 52158**  
***Maintenance Wage***  
***Rate Determination***

<b>Maintenance Wage Rate Determination</b>	<b>U.S. Department of Housing and Urban Development Office of Labor Relations</b>		<b>HUD FORM 52158 (04/2005)</b>
Agency Name:  <b>Winston-Salem Housing Authority Forsyth County</b>	LR 2000 Agency ID No: <b>NC099A</b>	Wage Decision Type: <input checked="" type="checkbox"/> <b>Routine Maintenance</b> <input type="checkbox"/> <b>Nonroutine Maintenance</b>	
	Effective Date: <b>October 1, 2018</b>	Expiration Date: <b>September 30, 2021</b>	
<p>The following wage rate determination is made pursuant to Section 12(a) of the U.S. Housing Act of 1937, as amended, (public housing agencies), or pursuant to Section 104(b) of the Native American Housing Assistance and Self-determination Act of 1996, as amended, (Indian housing agencies). The agency and its contractors may pay to maintenance laborers and mechanics no less than the wage rate(s) indicated for the type of work they actually perform.</p> <p><b>Jennifer A. Dupont, LRS</b> <span style="float: right;"><b>04/21/2021</b></span></p> <p>_____ HUD Labor Relations (Name, Title, Signature) <span style="float: right;">Date</span></p>			
<b>WORK CLASSIFICATION(S)</b>	<b>HOURLY WAGE RATES</b>		
	<b>BASIC WAGE</b>	<b>FRINGE BENEFIT(S) (if any)</b>	

Maintenance Mechanic	\$12.36	Rates based on NC Occupational Employment and Wages, Forsyth County, 2017.
Maintenance Mechanic Assistant	\$10.02	
Maintenance Laborer	\$8.21	
Janitor/Groundskeeper	\$7.25	
Unit Turnaround (Excluding Painting)	\$8.32	
Tree Trimmer	\$9.97	
Brickmason and Blockmason	\$17.26	
Carpenter	\$12.43	
Carpet Installer	\$11.14	
Floor Layers, Except Carpet, Wood, and Hard Tiles	\$10.16	
Tile and Marble Setters	\$12.79	
Cement Mason and Concrete Finisher	\$11.60	
Drywall and Ceiling Tile Installer	\$10.18	
Electrician	\$16.39	
Glazier	\$11.68	
Painter	\$12.76	
Plumber and Pipefitter	\$15.75	
Roofer	\$12.01	
Sheet Metal Worker	\$10.07	
Security and Fire Alarm Systems Installer	\$18.32	
Heating, AC and Refrigeration Mechanic	\$15.75	

The agency employee benefit program has been determined by HUD to be acceptable for meeting the prevailing fringe benefit requirements.

(HUD Labor Relations: If applicable, check box and initial below.)

\_\_\_\_\_  
LR Staff Initial

**FOR HUD USE ONLY**  
**LR2000:**

**Log in:    IMW**

**Log out:    OMW**

**Attachment H**

**Iran Divestment Act Certification**



Name of Company: \_\_\_\_\_  
\_\_\_\_\_

## IRAN DIVESTMENT ACT CERTIFICATION REQUIRED BY N.C.G.S. 143C-6A-5(a)

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As of the date listed below, the entity listed above is not listed on the Final Divestment List created by the State Treasurer pursuant to N.C.G.S. 143-6A-4.

The undersigned hereby certifies that he or she is authorized by the entity listed above to make the foregoing statement.

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\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Printed Name Title

## Handbook No. 7460.8 REV 2

5-6

2/2007

### TABLE 5.1 MANDATORY CONTRACT CLAUSES FOR SMALL PURCHASES OTHER THAN CONSTRUCTION

The following contract clauses are required in contracts pursuant to **24 CFR 85.36(i)** and Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. HUD is permitted to require changes, remedies, changed conditions, access and records retention, suspension of work, and other clauses approved by the Office of Federal Procurement Policy. The PHA and contractor is also subject to other Federal laws including the U.S. Housing Act of 1937, as amended, Federal regulations, and state law and regulations.

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

**Right in Data and Patent Rights (Ownership and Proprietary Interest).** The PHA 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 the Contract.

**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.

#### **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.

#### **Termination for Cause and for Convenience (contracts of \$10,000 or more).**

(a) The PHA may terminate this contract in whole, or from time to time in part, for the PHA's convenience or the failure of the Contractor to fulfill the contract obligations (cause/default). The PHA 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: (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the PHA all information, reports, papers, and other materials accumulated or generated in performing the contract, whether completed or in process.

(b) If the termination is for the convenience of the PHA, the PHA 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 (cause/default), the PHA may (1) require the Contractor to deliver to it, in the manner and to the extent directed by the PHA, any work described in the Notice of Termination; (2) take over the work and prosecute the same to completion by contract of otherwise, and the Contractor shall be liable for any additional cost incurred by the PHA; and (3) withhold any payments to the Contractor, for the purpose of set-off or partial payment, as the case may be, of amounts owned by the PHA by the Contractor. In the event of termination for cause/default, the PHA shall be liable to the Contractor for reasonable costs incurred by the Contractor before the effective date of the termination. Any dispute shall be decided by the Contracting Officer.