



# Request for Proposals [RFP]

## Legal/Consulting Services

RFP#: 2024-02-0002

Proposals Due By

March 8, 2024 @ 11:30 a.m. CST

**Little Rock Housing Authority/b/a  
Metropolitan Housing Alliance [MHA]  
100 South Arch Street  
Little Rock, AR 72201  
[Irhousing.org](http://Irhousing.org)  
(501) 340-4821**





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## About MHA

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Chartered in 1937, the Little Rock Housing Authority d/b/a Metropolitan Housing Alliance [MHA], is the largest and fourth oldest Public Housing Authority in the State of Arkansas. MHA is governed by a five-member Board of Commissioners which establishes Agency goals, approves policy, and budgets as well as provide general direction to the MHA Executive Director.

The Metropolitan Housing Alliance [MHA] administers approximately 3,200 vouchers to eligible individuals and families. This includes both tenant-based and project-based forms of HCV Program assistance located within the city of Little Rock.

MHA's project-based voucher and single room occupancy (SRO) sites include:

- 250 units at Fred Parris Towers
- 169 units at Jesse Powell Towers
- 178 units at Cumberland Towers
- 87 units at Sunset Terrace/Central & Stephens
- 20 units at Madison Heights III
- 17 units at Cumberland Manor
- 17 units at Metropolitan Village
- 51 units at Elm Street Community (SRO)

## Our Mission

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The mission of the Metropolitan Housing Alliance is to serve the residents of Little Rock by developing, owning, and operating safe, decent and affordable housing in a manner that promotes thriving communities.

## Our Values

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- Integrity
- Honesty
- Service
- Respect
- Dignity

## Agency Rights

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The Agency reserves the following right in association with the RFP process and upon contract award:

- ♦ **Right to Reject, Waive or Terminate the RFP.** Reject any or all proposals, or terminate the RFP process at any time, if deemed by the Agency to be in its best interest.
- ♦ **Right Not Award.** Not to award a contract pursuant to the RFP.
- ♦ **Right to Terminate.**
- ♦ **Right to Determine Time and Location.** Determine the days, hours, and locations that the successful offeror(s) shall provide the services called for in the RFP.
- ♦ **Right to Negotiate.** Negotiate the fees proposed by the offerors.
- ♦ **No Obligation to Compensate.** Have no obligation to compensate any offeror(s) for any costs incurred responding to this RFP.

**Unauthorized Subcontracting Prohibited:** The successful offeror(s)/contractor(s) shall not assign any right, nor delegate any duty for the work proposed pursuant to this RFP (including, but not limited to, selling or transferring the contract) without the prior written consent of the Agency. Any purported assignment of interest or delegation of duty, without the prior written consent of the Agency shall be void and may result in the cancellation of the contract with the Agency or may result in the full or partial forfeiture of funds paid on the contract, as determined by the Agency.

## I. INTRODUCTION

Through **RFP 2024-02-0002**, the Little Rock Housing Authority d/b/a Metropolitan Housing Alliance ("MHA"), hereafter referred to as MHA, is seeking to retain and contract a duly qualified Attorney to function as General Counsel in all legal matters which may arise in connection with the business and management of its various housing programs. All legal services must be provided in accordance with the existing rules, orders, directives and regulations promulgated by the United States Department of Housing and Urban Development, provided that such compliance is in the best interest of the Authority and is required by law.

## II. INSTRUCTIONS

Proposals must be received no later than **March 8<sup>th</sup> 2024, by 11:30 a.m. CST.**

Offerors must submit proposals via hard copies by hand-delivery or mail delivery.

Submissions must consist of: One original and three copies. Mailed or Hand-delivered proposals must be submitted at the address below:

Little Rock Housing Authority  
d/b/a Metropolitan Housing Alliance  
100 South Arch Street,  
Little Rock, AR, 72201  
Attn: Lamont Wimbley, Finance and Procurement Director

All responses to the RFP must be enclosed in a sealed envelope.

The envelope shall be marked: **RFP # 2024-02-0002 – Legal/Consulting Services**

Hand-deliveries must occur between the hours of 8:30 a.m. - 11:30 a.m. and 1:00 p.m. - 3:30 p.m., Monday - Friday.

Please ensure that you receive a time-stamped receipt for hand-delivered proposals. MHA staff will provide hard copy receipts for hand-delivered proposals upon drop-off. Mail delivered responses must be sent using a method to confirm delivery date and time. **PLEASE BE ADVISED: MHA offices will be closed Monday, February 19, 2024, in observance of President's Day.** Please do not hand-deliver or schedule mail delivery on February 19, 2024, as staff will not be present to receive it.

Upon submission of your proposal, you should receive an email confirmation from MHA staff within 24-hours of receipt.

Should you have questions regarding the proposal, please submit them via email at the addresses below:

Include "*RFP# 2024-02-0002*" in the email subject line.

• To: [lwimbley@mhapha.org](mailto:lwimbley@mhapha.org) cc: [imarion@mhapha.org](mailto:imarion@mhapha.org)

Respondents are advised that all submissions may be subject to public review and made available to the public upon request after the completion of the solicitation and award contract. Any information included in the response that is believed to be proprietary or confidential should be clearly identified as such in the proposal.

## III. PROCUREMENT SCHEDULE

Issue Date of RFP – February 16, 2024

Deadline for Submission of Questions – March 1, 2024 @ 3:30 p.m. CST Deadline

for MHA Response to Questions – March 5, 2024 @ 6:30 p.m. CST

Deadline for Submission of Proposals – March 8, 2024 @ 11:30 a.m. CST Award

Date by March 13, 2024

## IV. ITEMS TO BE INCLUDED WITH YOUR PROPOSAL

Provide a brief description of your firm, including but not limited to:

- a. Name of the principal(s) of the firm
- b. Name, telephone number and email address of a representative of the firm authorized to discuss your proposal
- c. Address of firm office(s)
- d. Number of employees of the firm
- e. Completed Fee Proposal Form
- f. Copy of work product
- g. Provide references of housing authorities currently under contract with the firm for whom the offeror has performed similar services to those described in the RFP. The list shall include the: client's name, client's contact name, client's telephone number, the date the service(s) was provided, and a brief narrative description.

## **V. REQUEST FOR GENERAL LEGAL COUNSEL SERVICES**

The MHA is seeking proposals from attorneys or law firms licensed to practice in the State of Arkansas to provide general legal counsel services.

The MHA will not accept retainer agreement proposals. MHA reserves the right to award contracts to more than one firm and/or to divide services among various firms. Contracts will be executed between the MHA and the law firm (attorney).

MHA reserves the right to issue separate or combined contracts with the firm. In other words, more than one contract may be entered between the firm and the MHA.

The contract will list performance milestones which must be completed for the Proposer to receive payment. The MHA encourages applicants to provide cost effective services at lowest cost to the taxpayers under this program. MHA reserves the right to set project milestones and to enter a performance-based contract with the applicant.

Based upon this solicitation, the MHA reserves the right to enter serial or multiple contracts with the winning applicant(s) to meet funding requirements. Serial or multiple contracts may be necessary because the MHA receives funding from various sources.

Applicants should have knowledge of United States Department of Housing and Urban as well as Arkansas Department of Finance regulations. The selected firm must be knowledgeable about construction law and court cases, construction practices, litigation, claims, the statutes and regulations that govern the MHA, landlord and tenant law, real estate development, and also the law and regulations that pertain to the U.S. Department of Housing and Urban Development (HUD). Public Housing Programs and other applicable regulations. The selected firm must have at a minimum, qualifications and experience necessary to perform the scope of work as described herein.

The MHA encourages applications from certified minority and women business enterprises as well as Section 3 firms.

Services provided under these contracts must be summarized in monthly written reports with detailed itemization of units of services delivered as well as types of services performed. Services must be billed at least once a month. Services not billed after 90 days of the expiration of the contract will not be considered for payment. Firms should be aware that MHA will only make payments on the contract issued under this RFP after the work being billed has been completed and will pay reimbursable expenses only upon receipt of an invoice for the reimbursable expenses. No advance payments will be made to the firm, who must have the capacity to meet all project expenses in advance of payments by MHA.

## **VI. SCOPE OFWORK**

The Metropolitan Housing Alliance (MHA) intends to award a contract to a qualified lawyer or firm to provide day-to-day legal services necessary for the operation of the agency. MHA reserves the right to award contracts to more than one firm and/or to divide services among various firms.

The MHA encourages submission from legal firms that are certified as Minority and Women Business Enterprises and Section 3 certified firms. MHA reserves the right to award contracts to more than one firm and/or to divide services among various firms. The attorney or firm selected should at a minimum be able to provide the following services:

1. Serve as general counsel and represent the MHA, and CAHC in any legal matters.
2. Provide general legal advice to the Executive Director, MHA Staff, and the Board of Commissioners relative to agency matters.
3. File routine lawsuits on behalf of the MHA and serve as counsel on any matters pertaining to the case.
4. Represent the Housing Authority in court on routine lawsuits filed against it by Contractors, Residents, Landlords and others.
5. Provide written legal opinions on varying circumstances with respect to procurement, Regulations of the Local Government Statute, Code of Federal Regulations, HUD Procurement Standards, MHA Procurement Policy, and other regulations and laws as necessary.
6. Provide written legal opinions and attend meetings as necessary for the resolution of disputes between the Housing Authority and contractors, landlords, residents, and/or vendors.
7. Provide all necessary legal services as may be required for the acquisition of or disposition of property to certify conformance to Local, State and Federal regulations.
8. Serve as legal advisor to the Board of Commissioners regarding the Board's powers, duties and responsibilities, legal methods, and procedures.
9. Attend public meetings (regular and special) of the Board of Commissioners
10. Review, as requested, Board of Commissioners resolutions and motions as well as meeting minutes.
11. Review of MHA documents to ensure compliance with the Arkansas State Open Meeting

Law, governance requirements contained in the relevant Code of Federal Regulations (CFR), MHA policies and procedures and By-laws and actions that will put the MHA at risk for liability exposure.

12. Opine on the legality of the substantive matters of resolutions and motions of the Board of Commissioners.
13. If requested, advise and assist the MHA in the preparation and/or analysis of contracts, leases, and other instruments or certificates as may be required from time to time and at any time.
14. Handle all legal questions arising from or pertaining to all such instruments and certificates including but not limited to the rendering of legal opinions (oral or written) on all matters submitted by the MHA.
15. Appear and represent the MHA in routine litigation matters such as non-payment of rent, evictions, and lease violation cases; (a case shall be considered "routine" if it does not require substantial litigation services. Whenever the legal counsel is of the opinion that litigation is non-routine, the MHA shall be notified promptly).
16. Provide legal advice for claims and lawsuits.
17. Accessible for "non-routine" litigation at the discretion of the MHA; (Litigation should be considered non-routine if it requires substantial litigation services beyond those provided in the above. These services will only be authorized in accordance with the MHA's procurement policy and a separate contract shall be executed for such services.)
18. Provide general counsel legal services in the areas of labor and employment law including personnel rules, collective bargaining agreements, discrimination and wrongful termination claims, worker's compensation and compliance with OSHA requirements.
19. Handle legal questions and matters arising under contracts of the MHA and rendering of legal opinions on matters submitted by the MHA.
20. Provide legal advice on regulations pertaining to Federal, State and local government, including housing, real estate, procurement and contractual issues.
21. Furnish legal advice on civil rights and fair housing requirements, including claims involving violations of the Civil Rights Act of 1964, the Rehabilitation Act of 1973 and the Americans with Disabilities Act (ADA).
22. Assist in preparing correspondence or other documents for contractors, vendors, agents, etc. as may be necessary to protect the Authority's interest for both the present and future.
23. Assist in the interpretation of regulations by Local, State and Federal agencies.
24. Provide training on the MHA Dwelling Lease, Section 8 Certification and Leasing process, and the eviction procedures to MHA staff, residents and other parties.
25. Provide legal representation and act as liaison with HUD's Legal Department, HUD's Office of Public Housing Investment which administers HUD's mixed-finance regulations.

The MHA shall retain the right to have the successful proposer provide services in any matter that the MHA believes the legal firm is qualified to provide. MHA reserves the right to award contracts to more than one firm and/or to divide services among various firms.

The successful proposer will only be providing work pertaining to legal issues commonly addressed by a legal counsel and the successful proposer will not be requested to provide any non-legal program work such as those commonly provided by professional services consulting firms.

As may be further detailed herein, the MHA may, on an as-needed basis, require the successful proposer to provide services pertaining to MHA-related matters within the following areas, each pertaining to applicable Federal, State and local regulations, statutes, laws and codes: Human Resources; Accounting, Finance and related audits; Operations; Maintenance; Development and Modernization; Information Technology; Housing Programs; Section 8; U.S. Department of Housing and Urban Development (HUD); Real Estate and Tax Credit; and any other matter the MHA needs services for.

Please note that the preceding is not intended to be an all-inclusive listing of all of the legal issues that the MHA may retain the successful proposer to provide but is intended to be a representative listing of issues that the MHA previously required such services for.

If the successful proposer does not have an in-house qualified person to provide any services required by the MHA, the successful proposer may retain another counsel who is such a qualified person. Such retention must have prior written approval of the MHA.

Any billing/payment for such additional counsel will be at the same hourly rate listed within the contract (meaning, the successful proposer may not add on an additional amount to the contracted hourly fee for retaining and overseeing such additional counsel). As the MHA will contract with the successful proposer only, all ensuing payments for any contracted matter will be made by the MHA to the successful proposer only.

The MHA reserves the right to, at any time during the ensuing contract period, and without penalty to the legal counsel retained because of this RFP, conduct additional competitive solicitations to retain additional legal counsel when it is in the best interests of the MHA to do so. Accordingly, the legal counsel retained because of this RFP shall have the right to also respond to any such additional solicitation process, if conducted.

The selected Proposer shall always guarantee access by the MHA, HUD, Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the selected Proposer which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts and transcriptions.

The selected Proposer shall be required to retain all pertinent records for a period not less than five (5) years after final payment has been made and all pending matters closed.

In submitting a response, the Proposer acknowledges that the MHA shall not compensate the Proposer for any submission or contract negotiation costs, including costs of preparation, appearances for interviews, and/or travel expenses. It is essential that the Proposer selected as General Counsel has the necessary knowledge, skills and experience to implement all aspects of the work. All work is to be performed with the highest degree of professional standards, in compliance with HUD regulations, MHA policies and procedures, criteria and requirements, and State and local laws and regulations.

#### **VII. BACKGROUND CHECK REQUIREMENT**

Vendor is required to perform criminal history checks and drug screen test on all prospective employees performing work under this RFP any resulting contract. Summaries of the results must be provided to the Agency, upon requests. Criminal history and drug screening checks will be completed at the sole expense of the Vendor.

#### **VIII. INSURANCE REQUIREMENT**

Prior to award, but not as a part of the proposal submission, the successful offeror will be required to provide the following documents:

- Proof of Worker's Compensation in the statutory amount.
- General Liability and Auto Insurance in the following amounts during the contract period.
- General Liability \$1,000,000
  - Auto Insurance
    - Property Damage - \$ 500,000
    - Liability - \$1,000,000

The MHA must be named as an additional insured on the selected vendor's general liability policy.

#### **IX. EVALUATION CRITERIA**

The Agency intends to award the contract to successful offerors pursuant to a "Best Value" basis. An evaluation committee will review proposals and rate proposals based on a numerical value system. Refer to the "Evaluation and Criteria Rating" heading to review evaluation factors and possible points.

## Evaluation Criteria & Rating

### **Relevant Experience of Vendor - Number of years vendor has performed Legal Services for Housing Authorities or Similar Public/Government Entities - 20 Points Maximum**

- *Highly Advantageous*

The Vendor has over 10 years of verifiable experience providing legal services for housing authorities or similar public/government entities. [20 points]

- *Advantageous*

The Vendor has 5 – 10 years of verifiable experience providing legal services for housing authorities or similar public/government entities. [10 points]

- *Not Advantageous*

The Vendor has 2 – 4 years of verifiable experience providing legal services for housing authorities or similar public/government entities. [5 points]

- *Unacceptable*

The Vendor has less than 2 years of verifiable experience providing legal services for housing authorities or similar public/government entities. [0 points]

### **Relevant Professional Qualifications – Education and Certifications - 20 Points Maximum**

- *Highly Advantageous*

The vendor and staff have more than the minimum required education and certifications for the legal services profession. [20 Points]

- *Advantageous*

The vendor and staff have the minimum required education and certifications for the legal services profession.

- *Unacceptable*

The vendor and staff does not have the minimum required education and certifications for the legal services profession. [0 Points]

### **Cost of Services- Proposed Fee Structures and Hourly Rates – 20 Points Maximum**

- *Highly Advantageous*

The proposed fee structure is *clear, detailed* and inclusive of an itemized breakdown as well as other *fee information* applicable to the RFP that has not been previously covered. The fees structure clearly indicates reasonable *costs*. [20 Points]

- *Advantageous*

The proposed fee structure is sufficiently *clear, detailed, and inclusive* of itemized breakdown to adequately ascertain cost reasonability. [10 Points]

- *Not Advantageous*

The proposed fee structure *provides some* pertinent *information but* does not provide adequate detail to fully ascertain cost reasonability. [5 Points]

- *Unacceptable*

The fee structure is not *addressed* in the proposal. [0 Points]

### **Evaluation of Overall Respondents Proposal - 20 Points Maximum**

- *Highly Advantageous*

The proposal addresses all *the* objectives outlined in the RFP. [20 points]

- *Advantageous*

The proposal addresses most project objectives in the RFP. [10 points]

- *Not Advantageous*

The proposal addresses all the objectives *outlined* in the RFP. [5 points]

- *Unacceptable*

The proposal *does not* address objectives *outlined* in the RFP. [0 points]

### **Evaluation of Previous Work Product Samples - 20 Points Maximum**

- *Highly Advantageous*

The samples are well organized with few to no significant analytical, grammatical, or typographical errors. [20 Points]

- *Advantageous*

The samples are well organized with few to no significant analytical, grammatical, or typographical errors. [10 Points]

- *Not Advantageous*

The samples are not well organized, *or* they contain several significant analytical, grammatical, or typographical errors. [5 Points]

- *Unacceptable*

No work samples have been provided. [0 Points]

**Maximum Total Points - 100 Points**



## **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 or 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.



# Attachments

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**Attachment A: Instruction to Offers Non Construction (Form HUD 5369B)**

**Attachment B: Certification and Representations of Offerors (Form HUD 5369C)**

**Attachment C: General Conditions for Non Construction Contracts (Form HUD 5370C)**

**Attachment D: Certifications of Payments to Influence Federal Transactions (Form HUD 50071)**

**Attachment E: Non-Collusive Affidavit Form**

**Attachment F: Section 3 Policy**

**Attachment G: Ethics Policy**

**Attachment H: Sample Evaluation & Criteria Score Sheet**

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# Instructions to Bidders for Contracts

## Public and Indian Housing Programs

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### 1. Bid Preparation and Submission

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

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

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

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

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

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

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

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

### 2. Explanations and Interpretations to Prospective Bidders

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

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

### 3. Amendments to Invitations for Bids

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

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

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

### 4. Responsibility of Prospective Contractor

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

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

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

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

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

(1) Was sent by registered or certified mail not later than the fifth calendar day before the date specified for receipt of offers (e.g., an offer submitted in response to a solicitation requiring receipt of offers by the 20th of the month must have been mailed by the 15th);

(2) Was sent by mail, or if authorized by the solicitation, was sent by telegram or via facsimile, and it is determined by the PHA/IHA that the late receipt was due solely to mishandling by the PHA/IHA after receipt at the PHA/IHA; or

(3) Was sent by U.S. Postal Service Express Mail Next Day Service - Post Office to Addressee, not later than 5:00 p.m. at the place of mailing two working days prior to the date specified for receipt of proposals. The term "working days" excludes weekends and observed holidays.

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

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

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

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

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

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

## 6. Bid Opening

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

## 7. Service of Protest

(a) Definitions. As used in this provision:

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

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

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

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

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

## 8. Contract Award

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

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

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

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

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

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

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

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

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

**10. Assurance of Completion**

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

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

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

[ ] (3) a 20 percent cash escrow;

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

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

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

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

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

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

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

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

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

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

(2) Preference in the award of contracts or subcontracts in connection with the administration of contracts be given to Indian organizations and to Indian-owned economic enterprises, as defined in section 3 of the Indian Financing Act of 1974 (25 U.S.C. 1452). That Act defines "economic enterprise" to mean any Indian-owned commercial, industrial, or business activity established or organized for the purpose of profit, except that the Indian ownership must constitute not less than 51 percent of the enterprise; "Indian organization" to mean the governing body of any Indian tribe or entity established or recognized by such governing body; "Indian" to mean any person who is a member of any tribe, band, group, pueblo, or community which is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs and any "Native" as defined in the Alaska Native Claims Settlement Act; and Indian "tribe" to mean any Indian tribe, band, group, pueblo, or community including Native villages and Native groups (including

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

# 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. "4Women-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 type="checkbox"/> J Asian Pacific Americans  |
| <input type="checkbox"/> J Hispanic Americans | <input type="checkbox"/> J Asian Indian Americans   |
| <input type="checkbox"/> J Native Americans   | <input type="checkbox"/> J Hasidic Jewish Americans |

### J. Certificate of Independent Price Determination

(a) The bidder/offeror certifies that-

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

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

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

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

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

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

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

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

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

#### 4. Organizational Conflicts of Interest Certification

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

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

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

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

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

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

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

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

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

#### 6. Conflict of Interest

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

#### 7. Offeror's Signature

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

\_\_\_\_\_  
Signature & Date:

\_\_\_\_\_  
Typed or Printed Name:

\_\_\_\_\_  
Title:  
\_\_\_\_\_



# 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 \$250,000 - use Section I;
- 2) Maintenance contracts (including nonroutine maintenance as defined at 24 CFR 905.200) greater than \$2,000 but not more than \$250,000 - use Section II; and
- 3) Maintenance contracts (including nonroutine maintenance), greater than \$250,000 – 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;
  - (1) The classification is utilized in the area by the industry; and
  - (2) 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.

(ii)

(ii)

- (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.

# Certification of Payments to Influence Federal Transactions

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

OMB Approval No. 2577-0157 (Exp. 01/31/2017)

Applicant Name

Program/Activity Receiving Federal Grant Funding

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, Disclosure Form to Report Lobbying, in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

I hereby certify that all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate.  
**Warning:** HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

Name of Authorized Official

Title

Signature

Date (mm/dd/yyyy)



## MHA Section 3 Policy

### A. REQUIRED EFFORTS

1. Consistent with Presidential Executive Orders 11625, 12138, and 12432, and Section 3 of the HUD Act of 1968, the Authority shall make efforts to ensure that small and minority- owned businesses, women’s business enterprises, labor surplus area businesses, and individuals or firms located in or owned in substantial part by persons residing in the area of and Authority development are used whenever possible. Such efforts shall include, but shall not be limited to:

- a. Including such firms, when qualified, on solicitation mailing lists.
- b. Encouraging their participation through direct solicitation of bids or proposals whenever they are potential sources.
- c. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by such firms.
- d. Establishing delivery schedules, where the requirement permits, which encourage participation by such firms.
- e. Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce.
- f. Including in contracts a clause requiring contractors, to the greatest extent feasible, to provide opportunities for training and employment for lower income residents of the development area and to award subcontracts for work in connection with the project to business concerns which are located in, or owned in substantial part by persons residing in the area of the development, as described in 24 CFR 75.
- g. Requiring prime contractors, when subcontracting is anticipated, to take the positive steps listed in A.1.a. through A.1.f. above.

2. Goals should be established by the Authority periodically for participation by small businesses, minority-owned businesses, women business enterprises, labor surplus area businesses, and business concerns which are located in, or owned in substantial part by persons residing in, the area of the development, in the Authority’s prime contracts and subcontracting opportunities.



## MHA Ethics Policy

### Ethics

#### PUBLIC ACCESS TO PROCUREMENT INFORMATION

Procurement information shall be a matter of public record to the extent provided in the Arkansas Freedom of Information Act and shall be available to the public as provided in that statute.

### Ethics in Public Contracting

#### General

The MHA hereby establishes this code of conduct regarding procurement issues and actions and shall implement a system of sanctions for violations. This code of conduct, etc., is consistent with applicable Federal, State, or local law.

#### Conflicts of Interest

No employee, officer, Board member, or agent of the MHA shall participate directly or indirectly in the selection, award, or administration of any contract if a conflict of interest, either real or apparent, would be involved. This type of conflict would be when one of the persons listed below has a financial or any other type of interest in a firm competing for the award:

- A. An employee, officer, Board member, or agent involved in making the award.
- B. His/her relative (including father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, or half-sister);
- C. His/her partner; or
- D. An organization which employs or is negotiating to employ or has an arrangement concerning prospective employment of any of the above.

#### Gratuities, Kickbacks, and Use of Confidential Information

No officer, employee, Board member, or agent shall ask for or accept gratuities, favors, or items of more than \$25 in value from any contractor, potential

contractor, or party to any subcontract, and shall not knowingly use confidential information for actual or anticipated personal gain.

#### Prohibition Against Contingent Fees

Contractors wanting to do business with the MHA must not hire a person to solicit or secure a contract for a commission, percentage, brokerage, or contingent fee, except for bona fide established commercial selling agencies.

NON-COLLUSION AFFIDAVIT

The undersigned bidder or agent, being duly sworn on oath, says that he/she has not, nor has any other member, representative, or agent of the firm, company, corporation or partnership represented by him, entered into any combination, collusion or agreement with any person relative to the price to be bid by anyone at such letting nor to prevent any person from bidding nor to include anyone to refrain from bidding, and that this bid is made without reference to any other bid and without any agreement, understanding or combination with any other person in reference to such bidding.

He/She further says that no person or persons, firms, or corporation has, have or will receive directly or indirectly, any rebate, fee gift, commission or thing of value on account of such sale.

OATH AND AFFIRMATION

I HEREBY AFFIRM UNDER THE PENALTIES FOR PERJURY THAT THE FACTS AND INFORMATION CONTAINED IN THE FOREGOING BID FOR PUBLIC WORKS ARE TRUE AND CORRECT.

Dated this \_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_  
(Name of Organization)

\_\_\_\_\_  
(Title of Person Signing)

\_\_\_\_\_  
(Signature)

ACKNOWLEDGEMENT

STATE OF \_\_\_\_\_ Arkansas \_\_\_\_\_)

) ss

COUNTY OF \_\_\_\_\_ Pulaski \_\_\_\_\_)

Before me, a Notary Public, personally appeared the above named and swore that the statements contained in the foregoing document are true and correct.

Subscribed and sworn to me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Notary Public Signature

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



<p align="center"><b>Proposal Evaluation Criteria</b></p>	<p align="center"><b>Max. Points</b></p>
<p><i>Relevant Experience of Vendor - Number of years vendor has performed Legal Services for Housing Authorities or Similar Public/ Government Entities</i></p> <p><b>Highly Advantageous</b> The Vendor has over 10 years of verifiable experience providing legal services for housing authorities or similar public/government entities. [20 points]</p> <p><b>Advantageous</b> The Vendor has 5 – 10 years of verifiable experience providing legal services for housing authorities or similar public/government entities. [10 points]</p> <p><b>Not Advantageous</b> The Vendor has 2 – 4 years of verifiable experience providing legal services for housing authorities or similar public/government entities. [5 points]</p> <p><b>Unacceptable</b> The Vendor has less than 2 years of verifiable experience providing legal services for housing authorities or similar public/government entities. [0 points]</p>	<p align="center">/20</p>
<p><i>Relevant Professional Qualifications – Education and Certifications</i></p> <p><b>Highly Advantageous</b> The vendor and staff have more than the minimum required education and certifications for the legal services profession. [20 Points]</p> <p><b>Advantageous</b> The vendor and staff have the minimum required education and certifications for the legal services profession.</p> <p><b>Unacceptable</b> The vendor and staff does not have the minimum required education and certifications for the legal services profession. [0 Points]</p>	<p align="center">/20</p>
<p><i>Cost of Services - Proposed Fee Structures</i></p> <p><b>Highly Advantageous</b> The proposed fee structure is clear, detailed, and inclusive of an itemized breakdown as well as other fee information applicable to the RFP that has not been previously covered. The fees structure clearly indicates reasonable costs. [20 Points]</p> <p><b>Advantageous</b> The proposed fee structure is sufficiently clear, detailed, and inclusive of itemized breakdown to adequately ascertain cost reasonability. [10 Points]</p> <p><b>Not Advantageous</b> The proposed fee structure provides some pertinent information but does not provide adequate detail to fully ascertain cost or cost reasonability. [5 Points]</p> <p><b>Unacceptable</b> The fee structure is not addressed in the proposal. [0 Points]</p>	<p align="center">/20</p>

<p><i>Evaluation of Overall Respondents Proposal</i></p> <p><b>Highly Advantageous</b> The proposal addresses all the objectives outlined in the RFP. [20 points]</p> <p><b>Advantageous</b> The proposal addresses most project objectives in the RFP. [10 points]</p> <p><b>Not Advantageous</b> The proposal addresses all the objectives outlined in the RFP. [5 points]</p> <p><b>Unacceptable</b> The proposal does not address objectives outlined in the RFP. [0 points]</p>	/20
<p><i>Evaluation of Previous Work Product Samples</i></p> <p><b>Highly Advantageous</b> The samples are well organized with few to no significant analytical, grammatical, or typographical errors. [20 Points]</p> <p><b>Advantageous</b> The samples are well organized with few to no significant analytical, grammatical, or typographical errors. [10 Points]</p> <p><b>Not Advantageous</b> The samples are not well organized, or they contain several significant analytical, grammatical, or typographical errors. [5 Points]</p> <p><b>Unacceptable</b> No work samples have been provided. [0 Points]</p>	/20
<p><b>100 Total Maximum Points:</b></p>	/100