REQUEST FOR PROPOSALS
FOR
BANKING SERVICES
RFP No. 20-04

DUE DATE: NOVEMBER 16, 2020 @ 3:00PM

P.O. Box 53028
Houston, Texas 77052
Tel: 713-578-2100
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REQUEST FOR PROPOSALS
for
BANKING SERVICES
RFP No. 20-04

Harris County Housing Authority ("**HCHA**") solicits proposals from qualified Banking Institutions to provide Banking Services for **HCHA** and its Affiliates.

This **RFP** contains submission requirements, service scope, period of service, terms, conditions, and other pertinent information for submitting a proper and responsive proposal. **RFP #20-04** will be posted on **October 18, 2020,** and can be downloaded from **HCHA's** website www.hchatexas.org.

Prospective **Banking Institution(s)** desiring any explanation or interpretation of this solicitation must make the request in writing no later than **November 4, 2020**. The request must be e-mailed to Paul Curry at paul.curry@hchatexas.org. Any information given to a prospective **Banking Institution** about this solicitation will be furnished to all other prospective **Banking Institutions** as a written amendment to the solicitation. All amendment(s) to this solicitation, if issued, will be posted on **HCHA's** website www.hchatexas.org. All **Banking Institutions** are encouraged to check **HCHA's** website for amendment issuance(s).

The **RFP** submission must be addressed to **Attn: Paul Curry, Harris County Housing Authority**. Submissions must be emailed (size limit 25MB) as a PDF attachment to paul.curry@hchatexas.org. The e-mail subject line must contain the following Information: **Banking Services - RFP # 20-04, Due Date and Time: November 16, 2020, 3:00 P.M. (CST), Name of Banking Institution: _____.**

Submittals must reach **HCHA** no later than 3**:00 P.M.** (**CST**) on **November 16, 2020**. Late submissions will be handled in accordance with the provisions in Form HUD-5369-B title "Late Submissions, Modifications, and Withdrawal of Offers." Submittals will be held in confidence and will not be released in any manner until after the contract award.

Submittals will be evaluated on the criteria stated in the **RFP**. Negotiations may be conducted with **Banking Institution(s)** who have a reasonable chance of being selected. After evaluation of the proposals, if any, the contract will be awarded to the responsible **Banking Institution** whose qualifications, project proposal, and other factors considered are the most advantageous to **HCHA**.

HCHA reserves the right to reject any and all submissions.

Horace Allison, AIA

_____
Horace Allison, CEO/Executive Director
Harris County Housing Authority

TABLE OF CONTENTS
RFP NO. 20-04

1.	Introduction	4
2.	Procurement Schedule	5
3.	Deliverables	5
4.	Scope of Services	6
5.	General Requirements	10
6.	Submission Requirements	10
7.	Methodology/Strategy to Accomplish Services	12
8.	Evaluation Criteria	12
9.	Travel and Reimbursables	13
10.	Payments	13
11.	Confidentiality of Proposals	14
12.	Minority/Women Business Participation	14
13.	Availability of Records	14
14.	Patents and Royalties	14
15.	Indemnification and Hold Harmless Agreement	15
16.	Pertinent Federal Regulations with regard to Nondiscrimination and Equal Opportunity	16

EXHIBITS:

Exhibit A:	Conflict of Interest Questionnaire (CIQ)
Exhibit B:	M/WBE Participation Form
Exhibit C:	Bidder's Proposed M/WBE Participation Form
Exhibit D:	Sample Format for Record-Keeping / Estimated Project Workforce Breakdown
Exhibit E:	Form of Non-Collusive Affidavit Form
Exhibit F:	Instructions to Offerors for Non-Construction (Form HUD-5369-B)
Exhibit G:	Certifications and Representations of Offerors for Non-Construction Contracts (Form HUD 5369-C)
Exhibit H:	General Conditions for Non-Construction Contracts (Form HUD 5370-C)
Exhibit I:	Certification of Payments to Influence Federal Transactions (Form HUD 50071)
Exhibit J:	Section 3 Policy
Exhibit K:	Ethics Policy
Exhibit L:	PIH Notice 2017-04 (HA) Limitations on Payments to Influence Federal Transactions for PIH Programs and PHA Anti-Lobbying Certification and Disclosure Requirements
Exhibit M:	Declaration (Required Submission)

I. INTRODUCTION

HCHA, as part of its mission, to provide safe, decent, and sanitary affordable housing for low-income persons hereby seeks proposals from qualified **Banking Institutions** to provide Banking Services. The statement of work to be performed is generally listed under the **"Scope of Services"** section but may not be all-inclusive of the services needed. Consequently, evaluation by the successful **Banking Institution** may lead to alterations in the scope.

HCHA will consider the most favorable **Banking Institution** who demonstrates knowledge, experience, and exceptional qualifications in providing banking services. In addition, the **Banking Institution** must be familiar with Federal, State, or local laws applicable to this request. The successful **Banking Institution** is expected to consult with the **HCHA** and other Harris County Departments. All submittals must conform to the requirements outlined herein.

If a contract is awarded, it will be awarded to the responsible **Banking Institution** whose qualifications, negotiated price, and other factors are deemed most advantageous to the **HCHA**. Additional requirements or restrictions imposed by **HUD** and other governmental entities will also be considered in rendering a decision.

Banking institutions are required to submit written proposals that delineate the **Banking Institution's** qualifications and understanding of the services to be performed. The **Banking Institution's** proposals should be prepared simply and economically and should provide all the information it considers pertinent to its qualifications for the scope of services contained herein. Emphasis should be placed on completeness of services offered and clarity of content of the Proposal.

The Proposal must be submitted no later than **3:00 P.M.** on **DAY, NOVEMBER 16, 2020**, to the following e-mail address:

Harris County Housing Authority
Attn: Paul Curry
RFP #20-04
E-mail: paul.curry@hchatexas.org

II. PROCUREMENT SCHEDULE

The anticipated schedule for the **RFP** is as follows:

SCHEDULE

EVENT	DATE
Advertised	October 18, 2020 and October 25, 2020
Post on **HCHA** Website	October 18, 2020
Pre-Submission Conference	November 3, 2020 @ 3:00 P.M.
Receipt of Written Questions	November 4, 2020
Response to Written Questions	November 5, 2020
Submission Date	November 16, 2020 @ 3:00 P.M.

III. DELIVERABLES

If submitting a Proposal, include all required information, fully executed and submitted in the e-mailed attachment. Any handmade corrections made in the Proposal must be initialed by the Banking Institution's principal or authorized officer. The Proposal must bear the electronic signature of a principal or authorized officer of the **Banking Institution**.

Proposals must be emailed as a PDF attachment to paul.curry@hchatexas.org. Only one (1) proposal need be emailed electronically. Electronic submission of the Proposal shall be considered signed by a principal or authorized representative of the **Banking Institution. Electronic submissions must be received by the due date and time for consideration. Please note that anything above 25MB will be rejected by the email system.**

Banking Institutions are solely responsible for ensuring that their proposals are received by the time and date stated. Receipt by **HCHA** after the due date and time specified will be cause for rejection.

Proposal Due Date/Time:

Proposals must be submitted on or before 3**:00 P.M. CST** on **NOVEMBER 16, 2020,** electronically by e-mail attachment. The e-mail subject line must contain the following information: **Banking Services. RFP #20-04, Due Date and Time: NOVEMBER 16, 2020, 3:00 P.M. (CST), Name of Banking Institution: _____.**

Submission Place/Address

Proposals must be submitted to the attention of **Paul Curry, Harris County Housing Authority, paul.curry@hchatexas.org.**

Proposals by telegram, telephone, fax, postal service, or handwritten Proposals will not be accepted by **HCHA**.

IV. SCOPE OF SERVICES

The scope of services to be provided shall include, but is not limited to, the following items:

The selected **Banking Institution** shall furnish sufficient organization, personal and management staff with the necessary skill and judgment to perform all the duties and responsibilities normally associated with providing comprehensive banking services to a large organization with public funds and federal reporting requirements.

The services proposed by the **Banking Institution** shall fully detail the proposer's offer pertaining to each of the following, including the submittal of sample forms, if appropriate.

I. Demand Depository

Provide a complete schedule of the types of demand deposit services offered by the financial institution, including checking, savings, certificate of deposits, money markets, and sweep investments. Please include in the schedule a list of your current interest rates offered for collected balances that are available to a government/public funds agency. Please indicate if these rates are per account or aggregate balance. **HCHA** anticipates maintaining a total average collected balance in excess of one (1) million. However, interest must be posted at the account level. **HCHA** is subject to the Public Funds Investment Act of the local government code. Please ensure all proposed investments vehicles meet the provisions of the act.

II. Wire Transfer

HCHA currently receives incoming wires, initiates outgoing wires, and completes intra-book transfers. The response to this RFP should describe the financial institution's proposed services, including:

a. Policy on daylight overdrafts, including aggregation of accounts and wire deadlines.
b. Ability of **HCHA** to initiate and monitor wire transfers online
c. Ability to create and store recurring/repetitive wire instructions/templates.
d. Ability to create and store future-dated wire instructions
e. Security measures for wire initiation and approval.

III. Automatic Clearing Housing (ACH)

HCHA currently initiates one set of landlord payments via **ACH** files transmitted electronically for its Housing Choice Voucher (**HCV**) and Jackson Hinds Single Room Occupancy Programs. The currently estimated aggregated amount is $3.5 million on the 1st of the month. **HCHA** also makes bi-weekly payments to employees via **ACH** from the disbursement accounts. These payments collectively each month could average $30k to $40k. **HCHA** is also investigating ways to increase these payments (in lieu of checks). The response to the **RFP** should describe the **Banking Institution's** ability to provide the proposed services, including the following:

a. Method by which the **HCHA** can submit **ACH** files or initiate **ACH** via bank software
b. Pre-notification policy and cost
c. Funding requirements for the **ACH** payment file
d. Security measures for **ACH** initiative/origination and **ACH** reception (**ACH** filters and blocks)
e. Deadlines for **ACH**
f. Availability of same-day **ACH**
g. Does the **Banking Institution** offer both **ACH** Debit and **ACH** Credit Programs? Please describe any differences in requirements.

IV. Monthly Statements and Account Analysis

HCHA currently receives monthly statements and account analysis. The statements are for the entire month and are received by the 20th working day of the month. The response to the RFP should provide:

a. A sample copy of the **Banking Institution's** monthly statement
b. A sample copy of the **Banking Institution's** monthly statement
c. The **Banking Institution's** Earning's Credit Rate and how it is calculated and applied to the monthly analysis statement.
d. The current FDIC rate and how it is computed and charged
e. Describe services, including when reports are available, how they are made available, how long report images are maintained, and how they are maintained.

V. Collateralization of Deposits

HCHA requires all balances to be collateralized at 110%. In addition, U.S. Department of Housing and Urban Development (**HUD**) guidelines require the successful proposer to sign a General Depository Agreement Form HUD 5199 https://www.hud.gov/sites/documents/51999.docx and meet any statutory requirements to provide services, including:

a. Eligible collateral instruments
b. Independent third-party safekeeping requirement
c. Substitution requirements
d. Proposer must confirm agreement to **HCHA's** conditions
e. Proposer must provide name of custodian(s) to be used and information on the financial condition of the institution.

VI. Online Banking

Proposer should provide information on how banking data (clearing checks, incoming **ACH** deposits, etc.) can be interfaced or integrated with MRI Software and Abila, and what support will be available under the contract.

Proposer shall also provide information on how and when training will be provided for online services as well as a detailed description of its online services and a list of all capabilities, including its ability to provide the following basic services:

a. Daily balances reporting in summary and detail (with check detail and images)
b. Daily **ACH** and wire with full addenda information
c. Prior day reporting
d. Intra-day reporting
e. Transfers between accounts
f. Initiation of wire transfers and stop payment orders
g. Initiation of **ACH** transactions including time requirements
h. Initiation of **ACH** transaction; recurring/repetitive/future **ACH** debit (collection) or credit (direct deposit) transactions
i. Maintenance or wire transfer templates
j. Stale-dating of checks
k. Inquiry of status of checks
l. Other services such as Electronic Data Interchange, remote collection, controlled disbursement

m. Confirmations availability and format
n. Online cleared check information/images
o. Multi-level security administration requirements
p. Positive pay for checks and **ACH** (including imaging of exception items)
q. Training of the **HCHA's** system administrator for managing access
r. Monthly statements

VII. Electronic Image Storage

HCHA currently utilizes electronic image retrieval for all cleared checks and daily activity by having access to its **Banking Institution** website and simply request an image account activity report and/or image user activity report. Provide information on electronic document storage and retrieval options.

VIII. Positive Pay or "Payee" Positive Pay

Banking Institution should provide information on this service for both checks and **ACH** items on each disbursement account (2 current accounts), such as:

a. Describe service, including positive pay services and verification items
b. Teller data update schedules
c. Data transmission method and time windows
d. Control options – notification of default
e. Internet/online access (including technical capabilities and system requirements)
f. Provide sample report from the Banking Institution

IX. Stop Payment

Proposer should provide information on this service, such as:

a. Online stop payment services (initiation and renewal)
b. Same-day processing of stop payment orders
c. Confirmation requirements
d. Look-up availability
e. Duration of a stop payment (e.g., six months or in perpetuity) and renewal processing options

X. Investment Safekeeping Services

HCHA will periodically invest in securities. The **Banking Institution** will be required to provide safekeeping facilities and services for these investment securities. Currently, **HCHA** has three (3) Securities held in safekeeping. Required safekeeping services include (but are not limited to):

a. All custodial arrangements must be in accordance with the Public Funds Collateral Act of the local government code.
b. Receive/deliver securities on a delivery/receipt versus payment method

XI. Electronic Deposit Scanning

HCHA currently scans deposits.

XII. Line of Credit

HCHA's affiliates may require a line of credit to be in place in order to facilitate the purchase of future properties prior to the finalization of permanent financing. It would be collateralized by currently held property, as well as the property purchased. Please explain your capability for providing the line of credit and any associated fees and/or stipulations.

XIV. Bankcard Processing

HCHA currently would like to process bankcards as a form of payment acceptance. Please provide information on how this would work, including all requirements, fees, and software needs.

XV. Pay Cards

Currently, **HCHA** has a contract with US Bank through our banking services agreement for pay cards (reloadable debit cards). The cards are issued to qualifying **HCV** participants/Landlords, whereby payments are made to the pay cards in lieu of a check. Please provide:

a. Capability of the pay card program
b. Online Administration
c. Reporting functionality
d. Include the various controls and usage restrictions, management features, customer service capabilities, reporting capabilities, and fraud procedures and policies offered by your institution.
e. If the Banking Institution does not provide its own pay card services but uses an outside agent, proposals should identify the organization to be used.

XVI. Other Services

In addition to normal services provided for accounts, **HCHA** would expect the following:

a. Printed two-part encoded deposit slips for each deposit account at no charge.
b. Phone or e-mail notification of discrepancies in deposits.
c. Designation of an account manager, who will be a single source of point of contact for all inquiries and problem resolution.
d. Identify branch offices convenient to our administrative office in Houston, Texas.
e. Furnish research items within 24 hours.
f. Ability to maintain a master list of authorized signers that are effective for all accounts under the **HCHA** contract.
g. Excellent customer service and response.
h. Blank stock checks to **HCHA's** specifications at no charge.
i. Immediate notification of incoming wires.
j. Free safe deposit boxes, cashier's checks, and money orders (if needed).
k. All debit and credit items generated by the institution are forwarded to HCHA by the next business day.
l. Present all checks returned uncollected twice before debiting **HCHA's** account. Returned debit items shall be forwarded daily to **HCHA**.
m. Support in answering questions, troubleshooting problems, and resolving issues in a prompt manner.
n. The **Banking Institution** will correct any encoding errors within two (2) working days from the date **HCHA** notifies the **Banking Institution** of the error or any daily non-matching items are identified as an encoding error.

o. All deposits are given same day credit if taken to the **Banking Institution** or before 2 P.M. and next day credit if after 2 P.M., at a minimum. Provide **HCHA** with specific hold policies established in accordance with the Funds Availability Act.
p. Provide research items (lost checks, mutilated checks, lost deposit slips, etc.) within three (3) working days.

XVII. Fees and Interest

Describe the manner in which you propose interest will be computed on **HCHA** accounts (minimum balances, reserve requirements, interest indices, etc.) and all proposed fees that will be charged. Describe how the interest rate is determined and how often it is adjusted. Include daily interest rates for the past three months and the investment vehicle to be used. Overnight investment of funds that provide third-party safekeeping or master note may be proposed, along with applicable daily rates. Interest must be posted at the account level.

V. GENERAL REQUIREMENTS

All submittals must conform to the requirements outlined herein. **HCHA** reserves the option to require oral presentation by the **Banking Institution(s)** and request additional information during the proposal review period.

Submittals must be open and not subject to unilateral withdrawal or modification for ninety (90) days after the submittal due date.

All costs incurred, directly or indirectly, in preparing a response to this request for proposals shall be the sole responsibility of and shall be borne by the successful **Banking Institution**.

The successful **Banking Institution** shall:

- The **Banking Institution** must have previous experience performing similar services to those requested in the "Scope of Services". It must have been operating and providing similar services for a minimum of three (5) years.
- Meet with **HCHA**, **HUD**, the community, and other state and local officials as may be necessary.
- Coordinate all services with **HCHA**.
- Coordinate all services with other parties as determined necessary by **HCHA**.
- Provide the basis, source, and methodology for arriving at conclusions in all materials and reports.
- List the **Banking Institutions'** name, contact person, telephone number, and provide resumes and profiles of expected participants in the performance of this service. The submittal must provide an execution plan, including schedules with tasks on how this work will be accomplished. There may be subsequent instructions issued to the successful candidate in connection with the final process. The submittal must make provisions to meet and comply with all applicable laws and regulatory criteria.

VI. SUBMISSION REQUIREMENTS

The following is a description of the minimum information, which must be supplied by **Banking Institution(s)** in their submittals. It is up to the **Banking Institution** to give such supplementary facts or

materials that it considers may be of assistance in evaluating the Proposal submitted. Submittals that omit critical elements may be considered non-responsive. Each submittal shall include a Table of Contents listing the submittal contents. The critical elements of the Proposal shall include the following information:

1. Letter of Transmittal. Signed by the person authorized to commit the organization to perform the services in the submittal.
2. Table of Contents.
3. Executive Summary. Provide a brief non-technical overview of the **Banking Institution's** business, including the range of services offered. **Banking Institutions** should provide information reflecting on how and why the **Banking Institution's** products and services meet **HCHA's** needs. List the **Banking Institution's** team members, roles, responsibilities, qualifications, and identify primary contact person. The **Banking Institution** shall identify hereunder if this Proposal is a joint venture or partnership with another entity.
4. Related experience of **Banking Institution** and staff assigned in providing banking services for Public Funds. **Banking Institution** shall provide five (5) examples of similar services.
5. Methodology/strategy to accomplish the scope of services. Provide a narrative summary describing the **Banking Institution's** strategy in completing the request within the scope of services. Provide a conceptual work program for the project that the **Banking Institution** believes is appropriate based on its understanding of the project and intended outcomes, deliverables, etc. Submittal of a draft project schedule is required as part of the conceptual work program.
6. Reimbursables/Contract. All travel, postage, telephone, living, and miscellaneous expenses will be borne by the successful **Banking Institution** and included in a negotiated total fixed price(s) contract. There will be no reimbursable expenses allowed under the contract.
7. Schedule of Performance/Timeliness.
8. List of business references (minimum of 5) that can verify the following regarding the **Banking Institution**; Past performance in terms of quality of work, cost control and compliance with performance schedule, and ability to adapt to change and unforeseen challenges. List names of organizations and names, telephone numbers, and email addresses of persons who can be contacted concerning the services provided.
9. Section 3 Program experience and compliance.
10. Women and Minority Business Enterprise (**M/WBE**) Participation. Describe and provide evidence of the **Banking Institution's** plans to make a good faith effort to maximize the utilization of women and minority-owned business enterprises and/or women business enterprise firms. In addition, all submittals shall include completed **M/WBE** forms.
11. Certifications and Affidavits. **Proposers** shall submit executed originals of the following:

    Exhibit A: Conflict of Interest Questionnaire (CIQ)
    Exhibit B: M/WBE Participation Form
    Exhibit C: Bidder's Proposed M/WBE Participation Form
    Exhibit D: Sample Format for Record-Keeping / Estimated Project Workforce Breakdown
    Exhibit E: Form of Non-Collusive Affidavit Form
    Exhibit G: Certifications and Representations of Offerors for Non-Construction Contracts

(Form HUD 5369-C)

Exhibit I: Certification of Payments to Influence Federal Transactions (Form HUD 50071)

Exhibit L: PIH Notice 2017-04 (HA) Limitations on Payments to Influence Federal Transactions for PIH Programs and PHA Anti-Lobbying Certification and Disclosure Requirements;

Exhibit M: Declaration (Required Submission)

12. Insurance: Evidence of all appropriate and applicable insurance coverage carried by the **Banking Institution**, including policy coverage periods. **Banking Institutions** shall furnish **HCHA** with certificates of insurance showing that the following insurance is in force, will insure all operations under this **RFP**, and include **HCHA** as a named insured. Required insurance levels are as follows:

    A. Professional liability insurance with a single limit of $1,000,000 per occurrence and combined aggregate of coverage amounting to no less than $2,000,000. Defense costs shall be excluded from the face amount of the policy. Aggregate limits are per 12-month policy period unless otherwise indicated. All insurance policies must require on their face, or by endorsement, that the insurance carrier waives any rights of subrogation against **HCHA**. The successful **Banking Institution** shall give 30 days' written notice to **HCHA** before any policy may be canceled, materially changed, or nonrenewed. Within the 30 days, the successful **Banking Institution** shall provide other suitable policies in lieu of those about to be canceled, materially changed, or nonrenewed so as to maintain in effect the required coverage.

13. Key Team Members. List of all key members of the **Banking Institution** and any sub-consultant(s) who will be responsible for **HCHA** accounts. Indicate the level of effort and function of each member on the relationship management team. Description of organization structure to showing how the key members will be involved. Include resumes of these individuals. The resumes should include the following minimum information:

    a. Names;
    b. An explanation of the functions they will perform and their titles by classification;
    c. Their relevant educational backgrounds;
    d. Their relevant work experience;
    e. Their work experience with governmental clients; and
    f. Any specialized skills, training, and/or credentials relevant to the required services.

VII. METHODOLOGY/STRATEGY TO ACCOMPLISH SERVICES

The successful **Banking Institution** must describe how it will approach the work associated with the requested services, including an understanding of the scope of services required and unique or innovative approaches to be utilized in performing these services.

VIII. EVALUATION CRITERIA

Submittals will be evaluated by an Evaluation/Selection Committee. This team will review the submittals and make a recommendation to **HCHA's** Executive Director. The Executive Director will present its recommendations to the Board of Commissioners of **HCHA,** who have the authority to award contracts.

HCHA reserves the right to call for supplemental information from **Banking Institutions** and to meet with all or any one of them to clarify points of uncertainty or ambiguity. **Banking Institutions** agree to cooperate fully and promptly in providing such supplemental information or meeting requests.

The selection of the successful **Banking Institution** will be at the sole discretion of **HCHA**. All submittals shall be evaluated, and up to three most qualified (top-ranked), responsive, and responsible **Banking Institutions** may be invited for panel interviews and discussions. If a contract is awarded, it will be awarded to the responsible **Banking Institution** whose qualifications and other factors are deemed most advantageous to **HCHA**. Additionally, **HCHA** shall have the right to reject any and all proposals at its discretion.

The **RFP** will be evaluated and rated on, but may not be limited to, the following criteria:

Evaluation Criteria	**Maximum Points**
1. **Meets Banking Requirements.** Response will be compared to determine how effectively the general banking needs of the Agency are met by the proposed services provided. Technical, financial, and management capabilities will be considered. The proposer's demonstrated experience and past performance based on references and information provided will also be taken into consideration.	35
2. **Cost Proposal.** Total aggregate cost of required services. Responses will be compared for the lowest cost.	20
3. **Earnings.** Total earnings to be paid on the projected collected balances. Response will be compared for the highest earnings	15
4. **Approach to the project.** Technical approach, quality of the work plan, and demonstrated understanding of the needs of the **HCHA**. Structure of customer service will be taken into consideration.	15
5. Community Service in the area of Community Reinvestment Act (CRA)	10
6. **Section 3 and MWBE**: Program participation, experience, and compliance.	5
Total Points Possible	**100**

IX. TRAVEL AND REIMBURSABLES

All travel, postage, telephone, living, and miscellaneous expenses will be borne by the successful **Banking Institution**. There will be no reimbursable expenses allowed under the purchase order/contract.

X. PAYMENTS

Payment will be made to the **Banking Institution** within thirty (30) days upon receiving an approvable invoice. The invoice shall state the period and services performed and the amount. Special services, if requested and provided, will be billed via a separate invoice and comprise of a detailed description of the service provided and the date it was provided. **HCHA** and/or an **HCHA** affiliate shall notify the **Banking Institution** of any adjustments required to be made to an invoice. Invoices should contain an invoice number, remittance address, itemized products and/or services provided, and price as quoted.

Prior to any and all payments made for goods and/or services provided under this contract, the **Banking Institution** must provide its taxpayer identification number or social security number as applicable. This information must be on file with **HCHA** and/or an **HCHA** affiliate. Failure to provide this information may result in a delay in payment and/or backup withholdings as required by the Internal Revenue Service.

HCHA and/or an **HCHA** affiliate is exempt from all federal, state, and local taxes unless otherwise stated in this solicitation. **HCHA** and/or an **HCHA** affiliate claims exemption from all sales and/or use taxes under Texas Tax Code 151.309 as amended. Texas Limited Sales Tax Exemption Certificates will be furnished upon written request to **HCHA** and/or an **HCHA** affiliate.

The duration and contract for services shall be for two (2) years with the option renew for two (2) additional years.

XI. CONFIDENTIALITY OF PROPOSALS

There will be no public opening of proposals. All proposals and information concerning the same shall remain confidential until all negotiations are completed and the Notice of Award is issued. **Banking Institutions** are hereby notified that all proposals received by **HCHA** shall be included as part of the official contract file. Therefore, any part of the proposals that are not considered confidential, privileged, or proprietary under any applicable Federal, State, or local law shall be available for public inspection upon completion of the procurement process. Any material submitted by the **Banking Institution** that is to be considered as confidential must be clearly marked as such; however, the applicable provisions of Federal, State, and local laws shall govern the confidentiality of proposals despite anything contrary to this provision stated in the Proposal.

XII. MINORITY/WOMEN BUSINESS PARTICIPATION

The firm awarded the contract agrees to use its best efforts to subcontract with minority business enterprises and/or women business enterprises, certified as such or recognized by the **HCHA** as such. The **Banking Institution** shall make a good faith effort to subcontract a sufficient dollar amount with **MBE/WBE** firms to ensure the final contract dollars are expended on one or more **MBE/WBEs.** All adjustments to increase the contract will also increase the total amount that the **Banking Institution** must make a good faith effort to expend on **MBE/WBEs**. In the event **HCHA** has a reasonable belief that the **Banking Institution** will not use its best efforts to meet the 30 percent (30%) **MBE/WBE** participation goal, **HCHA** reserves the right to pull work from the contract. Best efforts may be established by showing the **Banking Institution** has contacted and solicited bids/quotes from subcontractors in identifying **MBE/WBEs**.

XIII. AVAILABILITY OF RECORDS

HUD, U.S. Government Accounting Office, Harris County Housing Authority, and any duly authorized representatives of each shall have access to, and the right to examine any and all pertinent books, records, documents, invoices, papers, and the like, of the **Banking Institution(s)** office or firm, which shall relate to the performance of the services to be provided.

XIV. PATENTS AND ROYALTIES

The successful **Banking Institution** shall indemnify and save harmless **HCHA** and its employees from liability of any nature or kind, including cost and expenses for or on account of any copyrighted, patented, or not patented inventions, processes or articles manufactured or used in the performance of the contract,

including its use by **HCHA**. If the firm uses any service, device, or material covered by letters, patents, or copyrights, it is mutually agreed and understood that the successful **Banking Institution** shall include all royalties or costs arising from such services, devices, or materials involved in the work.

XV. INDEMNIFICATION AND HOLD HARMLESS AGREEMENT

The successful **Banking Institution** shall indemnify, defend, and hold **HCHA** and its officers, agents, employees, and commissioners (the "indemnified persons") harmless from all liability, loss, or damage, including attorney fees and expenses, resulting from all claims, demands and causes of action of every kind and character asserted by any person (including, without limitation, the indemnified persons or the successful **Banking Institution** employees), for personal injury, death, or for loss of or damage to any and all property in any way arising out of or in connection with the successful **Banking Institution's** performance hereunder. The successful **Banking Institution** shall be responsible for all damage and loss sustained by it to its tools and equipment utilized in the performance of the successful **Banking Institution's** services hereunder.

HCHA and/or any other indemnified persons shall notify the successful **Banking Institution** of any claim received within fifteen (15) days of receipt of such notice and shall promptly deliver to the successful **Banking Institution** the original, or a true copy, of any notice, summons, pleading, or other process issued or served. Failure of any indemnified persons to provide this notice within the fifteen (15) day period does not waive any right to indemnification except to the extent that the successful **Banking Institution** is prejudiced, suffers a loss, or incurs expense because of the delay.

Following such notification, and except as otherwise provided below, the successful **Banking Institution** shall defend any such claim, suit, proceeding, or other action, at its sole cost and expense with attorneys of its own selection who are reasonably satisfactory to **HCHA**.

The successful **Banking Institution** shall control the defense and any negotiations to settle the claim, but the indemnified persons shall have the right, if they see fit, to participate in such defense at their own expense. The successful **Banking Institution** shall have the power to settle the claim without the consent or agreement of the indemnified persons unless the settlement would (i) result in injunctive relief or other equitable remedies or otherwise require an indemnified person to comply with restrictions or limitations that would adversely affect the indemnified person, (ii) require an indemnified person to pay amounts that the successful **Banking Institution** does not fund in full, (iii) not result in an indemnified person's full and complete release from all liability to the claimants or other parties that are parties to or are otherwise bound by the settlement or (iv) establish a precedent(s) which the indemnified persons, in their sole discretion individually or their collective discretion as a group, determine is not in the best interest of the indemnified persons.

If the successful **Banking Institution** notifies **HCHA** in writing within ten (10) days after receipt of an indemnified person's written notice of a claim and request for indemnification, that the successful **Banking Institution** elects not to defend the claim, **HCHA** or any of the indemnified persons, shall assume and control the defense, and all defense expenses shall constitute an indemnification loss.

XVI. PERTINENT FEDERAL REGULATIONS WITH REGARD TO NONDISCRIMINATION AND EQUAL OPPORTUNITY

The requirements of Title VIII of the Civil Rights Act of 1968 and Title VI of the Civil Rights Act of 1964, relating to prohibitions against discrimination in housing and the benefits of federally funded programs because of race, color, religion, sex, or national origin must be met by the successful **Banking Institution**.

The successful **Banking Institution** must adhere to federal regulations prohibiting discrimination on the basis of age under the Age Discrimination Act of 1975 and prohibit discrimination against disabled individuals under Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1989.

The requirements of Executive Order 11246, relating to equal employment opportunity in connection with federally funded programs, must be met by the successful **Banking Institution**.

The successful **Banking Institution** must also meet the requirements of Section 3 of the Housing and Urban Development Act of 1968, relating to the training and employment of individuals and contracting for business opportunities in metropolitan areas in which federally funded programs are being operated.

The successful **Banking Institution** must meet the requirements of Executive Orders 11625, 12432, and 12138 relating to the use of minority and women's business enterprises in connection with federally funded programs.

CONFLICT OF INTEREST QUESTIONNAIRE

FORM CIQ

For vendor doing business with local governmental entity

This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.

This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).

By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. *See* Section 176.006(a-1), Local Government Code.

A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.

OFFICE USE ONLY

Date Received

1 **Name of vendor who has a business relationship with local governmental entity.**

2 ☐ **Check this box if you are filing an update to a previously filed questionnaire.** (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

3 **Name of local government officer about whom the information is being disclosed.**

Name of Officer

4 **Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. Complete subparts A and B for each employment or business relationship described. Attach additional pages to this Form CIQ as necessary.**

A. Is the local government officer or a family member of the officer receiving or likely to receive taxable income, other than investment income, from the vendor?

☐ Yes ☐ No

B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer or a family member of the officer AND the taxable income is not received from the local governmental entity?

☐ Yes ☐ No

5 **Describe each employment or business relationship that the vendor named in Section 1 maintains with a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more.**

6 ☐ Check this box if the vendor has given the local government officer or a family member of the officer one or more gifts as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a-1).

7

Signature of vendor doing business with the governmental entity

Date

A

CONFLICT OF INTEREST QUESTIONNAIRE
For vendor doing business with local governmental entity

A complete copy of Chapter 176 of the Local Government Code may be found at http://www.statutes.legis.state.tx.us/Docs/LG/htm/LG.176.htm. For easy reference, below are some of the sections cited on this form.

Local Government Code § 176.001(1-a): "Business relationship" means a connection between two or more parties based on commercial activity of one of the parties. The term does not include a connection based on:

(A) a transaction that is subject to rate or fee regulation by a federal, state, or local governmental entity or an agency of a federal, state, or local governmental entity;

(B) a transaction conducted at a price and subject to terms available to the public; or

(C) a purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency.

Local Government Code § 176.003(a)(2)(A) and (B):

(a) A local government officer shall file a conflicts disclosure statement with respect to a vendor if:

***

(2) the vendor:

(A) has an employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family member receiving taxable income, other than investment income, that exceeds $2,500 during the 12-month period preceding the date that the officer becomes aware that

(i) a contract between the local governmental entity and vendor has been executed; or

(ii) the local governmental entity is considering entering into a contract with the vendor;

(B) has given to the local government officer or a family member of the officer one or more gifts that have an aggregate value of more than $100 in the 12-month period preceding the date the officer becomes aware that:

(i) a contract between the local governmental entity and vendor has been executed; or

(ii) the local governmental entity is considering entering into a contract with the vendor.

Local Government Code § 176.006(a) and (a-1)

(a) A vendor shall file a completed conflict of interest questionnaire if the vendor has a business relationship with a local governmental entity and:

(1) has an employment or other business relationship with a local government officer of that local governmental entity, or a family member of the officer, described by Section 176.003(a)(2)(A);

(2) has given a local government officer of that local governmental entity, or a family member of the officer, one or more gifts with the aggregate value specified by Section 176.003(a)(2)(B), excluding any gift described by Section 176.003(a-1); or

(3) has a family relationship with a local government officer of that local governmental entity.

(a-1) The completed conflict of interest questionnaire must be filed with the appropriate records administrator not later than the seventh business day after the later of:

(1) the date that the vendor:

(A) begins discussions or negotiations to enter into a contract with the local governmental entity; or

(B) submits to the local governmental entity an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the local governmental entity; or

(2) the date the vendor becomes aware:

(A) of an employment or other business relationship with a local government officer, or a family member of the officer, described by Subsection (a);

(B) that the vendor has given one or more gifts described by Subsection (a); or

(C) of a family relationship with a local government officer.

HARRIS COUNTY HOUSING AUTHORITY

P.O. Box 53028
Houston, Texas 77052
713-578-2100
www.hchatexas.org

M/WBE PARTICIPATION

M/WBE PARTICIPATION: The consultant agrees to make its best efforts to subcontract with minority business enterprises and/or women business enterprises (herein called M/WBE) certified as such or recognized by HCHA as a certified M/WBE. Consultant shall make its best efforts to subcontract a sufficient dollar amount with M/WBEs to ensure that a minimum of 30 percent of the final contract dollars are expended on one or more M/WBEs. All adjustments that cause the contract price to increase will also increase the total amount that Consultant must make its best efforts to expend on M/WBEs.

USING BEST EFFORTS TO FULFILL M/WBE REQUIREMENT: In the event HCHA has a reasonable belief that Consultant will not use his/her/its best efforts to meet the 30 percent M/WBE participation goal, HCHA reserves the right to pull work from the contract. Best efforts may be established by showing that Consultant has contacted and solicited bids/quotes from subcontractors and worked with HCHA to seek assistance in identifying M/WBEs.

FAILURE TO USE YOUR BEST EFFORTS TO COMPLY MAY CONSTITUTE BREACH OF CONTRACT AND SUBJECT THE CONTRACT TO TERMINATION.

NOTIFICATION OF M/WBE PARTICIPATION: Consultant agrees to promptly complete and return all M/WBE Confirmation of Participation and M/WBE Confirmation of Payment forms utilized by HCHA to confirm M/WBE subcontractor by submitting copies of checks made payable to the respective M/WBE subcontractor signed by the successful Offeror.

_____ _____

CONSULTANT DATE

HARRIS COUNTY HOUSING AUTHORITY

P.O. Box 53028
Houston, Texas 77052
713-578-2100
www.hchatexas.org

BIDDER'S PROPOSED M/WBE PARTICIPATION FORM

Bidder proposes to work with the following MBE/WBE participants:

Name of Participant	M/WBE	Certifying Entity (City/Metro/HISD)	Percent of Total Work

HARRIS COUNTY HOUSING AUTHORITY

P.O. Box 53028
Houston, Texas 77052
713-578-2100
www.hchatexas.org

SAMPLE FORMAT FOR RECORDKEEPING
ESTIMATED PROJECT WORKFORCE BREAKDOWN

M/WBE PARTICIPATION

Job Category	Total Estimated Positions Needed For Project	Number Positions Occupied By Permanent Employees	Number of Positions Not Occupied	Number of Positions To Be Filled With M/WBE
Officer / Supervisor				
Professional				
Technical				
Office / Clerical				
Service Workers				
Trainees				
Contracts:				
Others				

_____
Company

_____
Project Name

_____
Person Completing Form

_____
Date

D

HARRIS COUNTY HOUSING AUTHORITY

P.O. Box 53028
Houston, Texas 77052
713-578-2100
www.hchatexas.org

FORM OF NON-COLLUSIVE AFFIDAVIT

STATE OF TEXAS

COUNTY OF HARRIS

_____, being first duly sworn, deposes and says that he is

_____
(a partner of officer of the firm of, etc.)

of the party making the foregoing proposal or bid, that such proposal or bid is genuine and not collusive or sham; that said Offeror has not colluded, conspired, connived or agreed, directly or indirectly, with any manner, directly or indirectly, sought by agreement or collusion, or communication or conference with any person to fix the bid price or affiant or of any other Offeror, or to fix any overhead, profit, or cost element of said bid price, or of that of any other Offeror, or to secure any advantage against

HARRIS COUNTY HOUSING AUTHORITY

or of any person interested in the proposed Contract; and that all statements in said proposal or bid are true.

_____
Signature of Offeror, if Offeror is an Individual

_____
Signature of Offeror, if Offeror is a Partnership

_____
Signature of Officer, if Offeror is a Corporation

Subscribed and sworn to before me this _____ day of _____, 201_
Notary Public
My Commission expires: _____

E

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.

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(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:]

Certifications and Representations of Offerors
Non-Construction Contract

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

OMB Approval No: 2577-0180 (exp. 7/30/96)

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)

[ ] Black Americans [ ] Asian Pacific Americans
[ ] Hispanic Americans [ ] Asian Indian Americans
[ ] Native Americans [ ] 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)(l) 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)(l) 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)(l) through (a)(3) above; and

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(iii) As an agent, has not personally participated, and will not participate in any action contrary to subparagraphs (a)(l) 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 I – (With or without Maintenance Work)

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

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

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

1) **Non-construction contracts** (*without* maintenance) **greater than $105,000 - use Section I**;
2) **Maintenance contracts** (including nonroutine maintenance as defined at 24 CFR 968.105) **greater than $2,000 but not more than $150,000 - use Section II**; and
3) **Maintenance contracts** (including nonroutine maintenance), **greater than $150,000 – use Sections I and II.**

Section I - Clauses for All Non-Construction Contracts greater than $150,000

1. Definitions

The following definitions are applicable to this contract:

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

2. Changes

(a) The HA may at any time, by written order, and without notice to the sureties, if any, make changes within the general scope of this contract in the services to be performed or supplies to be delivered.
(b) If any such change causes an increase or decrease in the hourly rate, the not-to-exceed amount of the contract, or the time required for performance of any part of the work under this contract, whether or not changed by the order, or otherwise affects the conditions of this contract, the HA shall make an equitable adjustment in the not-to-exceed amount, the hourly rate, the delivery schedule, or other affected terms, and shall modify the contract accordingly.
(c) The Contractor must assert its right to an equitable adjustment under this clause within 30 days from the date of receipt of the written order. However, if the HA decides that the facts justify it, the HA may receive and act upon a proposal submitted before final payment of the contract.
(d) Failure to agree to any adjustment shall be a dispute under clause Disputes, herein. However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.
(e) No services for which an additional cost or fee will be charged by the Contractor shall be furnished without the prior written consent of the HA.

3. Termination for Convenience and Default

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

4. Examination and Retention of Contractor's Records

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

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(b) The Contractor agrees to include in first-tier subcontracts under this contract a clause substantially the same as paragraph (a) above. "Subcontract," as used in this clause, excludes purchase orders not exceeding $10,000.

(c) The periods of access and examination in paragraphs (a) and (b) above for records relating to:
(i) appeals under the clause titled Disputes;
(ii) litigation or settlement of claims arising from the performance of this contract; or,
(iii) costs and expenses of this contract to which the HA, HUD, or Comptroller General or any of their duly authorized representatives has taken exception shall continue until disposition of such appeals, litigation, claims, or exceptions.

5. Rights in Data (Ownership and Proprietary Interest)

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

6. Energy Efficiency

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

7. Disputes

(a) All disputes arising under or relating to this contract, *except for disputes arising under clauses contained in Section III, Labor Standards Provisions,* including any claims for damages for the alleged breach there of which are not disposed of by agreement, shall be resolved under this clause.

(b) All claims by the Contractor shall be made in writing and submitted to the HA. A claim by the HA against the Contractor shall be subject to a written decision by the HA.

(c) The HA shall, with reasonable promptness, but in no event in no more than 60 days, render a decision concerning any claim hereunder. Unless the Contractor, within 30 days after receipt of the HA's decision, shall notify the HA in writing that it takes exception to such decision, the decision shall be final and conclusive.

(d) Provided the Contractor has (i) given the notice within the time stated in paragraph (c) above, and (ii) excepted its claim relating to such decision from the final release, and (iii) brought suit against the HA not later than one year after receipt of final payment, or if final payment has not been made, not later than one year after the Contractor has had a reasonable time to respond to a written request by the HA that it submit a final voucher and release, whichever is earlier, then the HA's decision shall not be final or conclusive, but the dispute shall be determined on the merits by a court of competent jurisdiction.

(e) The Contractor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under the contract, and comply with any decision of the HA.

8. Contract Termination; Debarment

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

9. Assignment of Contract

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

10. Certificate and Release

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

11. Organizational Conflicts of Interest

(a) The Contractor warrants that to the best of its knowledge and belief and except as otherwise disclosed, it does not have any organizational conflict of interest which is defined as a situation in which the nature of work under this contract and a contractor's organizational, financial, contractual or other interests are such that:
(i) Award of the contract may result in an unfair competitive advantage; or
(ii) The Contractor's objectivity in performing the contract work may be impaired.

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

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

(d) The terms of this clause shall be included in all subcontracts and consulting agreements wherein the work to be performed is similar to the service provided by the prime Contractor. The Contractor shall include in such subcontracts and consulting agreements any necessary provisions to eliminate or neutralize conflicts of interest.

12. Inspection and Acceptance

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

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

(b) The Contractor shall make any required corrections promptly at no additional charge and return a revised copy of the product to the HA within 7 days of notification or a later date if extended by the HA.

(c) Failure by the Contractor to proceed with reasonable promptness to make necessary corrections shall be a default. If the Contractor's submission of corrected work remains unacceptable, the HA may terminate this contract (or the task order involved) or reduce the contract price or cost to reflect the reduced value of services received.

13. Interest of Members of Congress

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

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

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

15. Limitation on Payments to Influence Certain Federal Transactions

(a) Definitions. As used in this clause:

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Prohibition.

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

(ii) The prohibition does not apply as follows:

(1) Agency and legislative liaison by Own Employees.

(a) The prohibition on the use of appropriated funds, in paragraph (i) of this section, does not apply in the case of a payment of reasonable compensation made to an officer or employee of a person requesting or receiving a Federal contract, grant, loan, or cooperative agreement, if the payment is for agency and legislative activities not directly related to a covered Federal action.

(b) For purposes of paragraph (b)(i)(1)(a) of this clause, providing any information specifically requested by an agency or Congress is permitted at any time.

(c) The following agency and legislative liaison activities are permitted at any time only where they are not related to a specific solicitation for any covered Federal action:

(1) Discussing with an agency (including individual demonstrations) the qualities and characteristics of the person's products or services, conditions or terms of sale, and service capabilities; and,

(2) Technical discussions and other activities regarding the application or adaptation of the person's products or services for an agency's use.

(d) The following agency and legislative liaison activities are permitted where they are prior to formal solicitation of any covered Federal action:

(1) Providing any information not specifically requested but necessary for an agency to make an informed decision about initiation of a covered Federal action;

(2) Technical discussions regarding the preparation of an unsolicited proposal prior to its official submission; and

(3) Capability presentations by persons seeking awards from an agency pursuant to the provisions of the Small Business Act, as amended by Public Law 95-507 and other subsequent amendments.

(e) Only those activities expressly authorized by subdivision (b)(ii)(1)(a) of this clause are permitted under this clause.

(2) Professional and technical services.

(a) The prohibition on the use of appropriated funds, in subparagraph (b)(i) of this clause, does not apply in the case of-

(i) A payment of reasonable compensation made to an officer or employee of a person requesting or receiving a covered Federal action or an extension, continuation, renewal, amendment, or modification of a covered Federal action, if payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action.

(ii) Any reasonable payment to a person, other than an officer or employee of a person requesting or receiving a covered Federal action or an extension, continuation, renewal, amendment, or modification of a covered Federal action if the payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action. Persons other than officers or employees of a person requesting or receiving a covered Federal action include consultants and trade associations.

(b) For purposes of subdivision (b)(ii)(2)(a) of clause, "professional and technical services" shall be limited to advice and analysis directly applying any professional or technical discipline.

(c) Requirements imposed by or pursuant to law as a condition for receiving a covered Federal award include those required by law or regulation, or reasonably expected to be required by law or regulation, and any other requirements in the actual award documents.

(d) Only those services expressly authorized by subdivisions (b)(ii)(2)(a)(i) and (ii) of this section are permitted under this clause.

(iii) Selling activities by independent sales representatives.

(c) The prohibition on the use of appropriated funds, in subparagraph (b)(i) of this clause, does not apply to the following selling activities before an agency by independent sales representatives, provided such activities are prior to formal solicitation by an agency and are specifically limited to the merits of the matter:

(i) Discussing with an agency (including individual demonstration) the qualities and characteristics of the person's products or services, conditions or terms of sale, and service capabilities; and

(ii) Technical discussions and other activities regarding the application or adaptation of the person's products or services for an agency's use.

(d) Agreement. In accepting any contract, grant, cooperative agreement, or loan resulting from this solicitation, the person submitting the offer agrees not to make any payment prohibited by this clause.

(e) Penalties. Any person who makes an expenditure prohibited under paragraph (b) of this clause shall be subject to civil penalties as provided for by 31 U.S.C. 1352. An imposition of a civil penalty does not prevent the Government from seeking any other remedy that may be applicable.

(f) Cost Allowability. Nothing in this clause is to be interpreted to make allowable or reasonable any costs which would be unallowable or unreasonable in accordance with Part 31 of the Federal Acquisition Regulation (FAR), or OMB Circulars dealing with cost allowability for recipients of assistance agreements. Conversely, costs made specifically unallowable by the requirements in this clause will not be made allowable under any of the provisions of FAR Part 31 or the relevant OMB Circulars.

16. Equal Employment Opportunity

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

(a) The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin.

(b) The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to (1) employment; (2) upgrading; (3) demotion; (4) transfer; (5) recruitment or recruitment advertising; (6) layoff or termination; (7) rates of pay or other forms of compensation; and (8) selection for training, including apprenticeship.

(c) The Contractor shall post in conspicuous places available to employees and applicants for employment the notices to be provided by the Contracting Officer that explain this clause.

(d) The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(e) The Contractor shall send, to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, the notice to be provided by the Contracting Officer advising the labor union or workers' representative of the Contractor's commitments under this clause, and post copies of the notice in conspicuous places available to employees and applicants for employment.

(f) The Contractor shall comply with Executive Order 11246, as amended, and the rules, regulations, and orders of the Secretary of Labor.

(g) The Contractor shall furnish all information and reports required by Executive Order 11246, as amended and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto. The Contractor shall permit access to its books, records, and accounts by the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(h) In the event of a determination that the Contractor is not in compliance with this clause or any rule, regulation, or order of the Secretary of Labor, this contract may be canceled, terminated, or suspended in whole or in part, and the Contractor may be declared ineligible for further Government contracts, or federally assisted construction contracts under the procedures authorized in Executive Order 11246, as amended. In addition, sanctions may be imposed and remedies invoked against the Contractor as provided in Executive Order 11246, as amended, the rules, regulations, and orders of the Secretary of Labor, or as otherwise provided by law.

(i) The Contractor shall include the terms and conditions of this clause in every subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor issued under Executive Order 11246, as amended, so that these terms and conditions will be binding upon each subcontractor or vendor. The Contractor shall take such action with respect to any subcontractor or purchase order as the Secretary of Housing and Urban Development or the Secretary of Labor may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided that if the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

17. Dissemination or Disclosure of Information

No information or material shall be disseminated or disclosed to the general public, the news media, or any person or organization without prior express written approval by the HA.

18. Contractor's Status

It is understood that the Contractor is an independent contractor and is not to be considered an employee of the HA, or assume any right, privilege or duties of an employee, and shall save harmless the HA and its employees from claims suits, actions and costs of every description resulting from the Contractor's activities on behalf of the HA in connection with this Agreement.

19. Other Contractors

HA may undertake or award other contracts for additional work at or near the site(s) of the work under this contract. The contractor shall fully cooperate with the other contractors and with HA and HUD employees and shall carefully adapt scheduling and performing the work under this contract to accommodate the additional work, heeding any direction that may be provided by the Contracting Officer. The contractor shall not commit or permit any act that will interfere with the performance of work by any other contractor or HA employee.

20. Liens

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

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

(a) The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

(b) The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 135 regulations.

(c) The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of

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

(d) The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.

(e) The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR Part 135.

(f) Noncompliance with HUD's regulations in 24 CFR Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

22. Procurement of Recovered Materials

(a) In accordance with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, the Contractor shall procure items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition. The Contractor shall procure items designated in the EPA guidelines that contain the highest percentage of recovered materials practicable unless the Contractor determines that such items: (1) are not reasonably available in a reasonable period of time; (2) fail to meet reasonable performance standards, which shall be determined on the basis of the guidelines of the National Institute of Standards and Technology, if applicable to the item; or (3) are only available at an unreasonable price.

(b) Paragraph (a) of this clause shall apply to items purchased under this contract where: (1) the Contractor purchases in excess of $10,000 of the item under this contract; or (2) during the preceding Federal fiscal year, the Contractor: (i) purchased any amount of the items for use under a contract that was funded with Federal appropriations and was with a Federal agency or a State agency or agency of a political subdivision of a State; and (ii) purchased a total of in excess of $10,000 of the item both under and outside that contract.

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. 3/31/2020)

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

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

1) Non-construction contracts (*without* maintenance) greater than $100,000 - use Section I;
2) Maintenance contracts (including nonroutine maintenance as defined at 24 CFR 905.200) greater than $2,000 but not more than $100,000 - use Section II; and
3) Maintenance contracts (including nonroutine maintenance), greater than $100,000 – use Sections I and II.

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) 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

(ii) 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

(iii) 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

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.

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

Certification of Payments to Influence Federal Transactions

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

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)

Harris County Housing Authority
Section 3 Policy

STATEMENT OF PURPOSE

The purpose of Section 3 of the Housing and Urban Development Act of 1968, as amended by Section 915 of the Housing and Community Development Act of 1992, is to "ensure that employment and other economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible, and consistent with existing Federal, State and local laws and regulations, be directed toward low-and very low income persons, particularly those who are recipients of government assistance for housing, and to business concerns which provide economic opportunities to low-and very low-income persons." The 1992 Act sets forth:

- The types of HUD financial assistance, activities, and recipients subject to the requirements of Section 3;
- The specific individuals and business concerns who are the intended beneficiaries of the economic opportunities generated from HUD-assisted activities; and
- The order of priority in which these individuals and business concerns should be recruited and solicited for the employment and other economic opportunities generated from HUD-assisted activities.

The Harris Housing Authority's Section 3 Policy is expressed in this statement, the goal statement, and the preference tiers. Implementation procedures may be amended periodically to insure that the policy requirements are being met or to bring about efficiencies in the implementation of the program based on the practice and experience of running the program.

*Note that supply and delivery contracts are exempted from these Section 3 Policy requirements.

HARRIS COUNTY HOUSING AUTHORITY PREFERENCE TIERS

Harris County Housing Authority's preference is to ensure that as many housing authority residents as possible are employed. In an effort to further that goal, the Authority has created the following preference tier structure. Vendors are asked to comply with Section 3 by first considering Category I, hiring at the site where work is being performed. If the vendor demonstrates to the Authority's satisfaction the inability to hire at the site, the Authority's next preference is for the vendor to hire residents from other Authority properties and/or programs (Category II). If the vendor cannot meet its Section 3 goal in this manner and needs to move to other categories, the vendor must document this inability to comply with the preference.

I. Preference for Section 3 Residents in Training and Employment Opportunities

Category I Train/hire residents from the site where the work is being performed

Category II Train/hire residents of other housing developments and/or programs managed by the housing authority that is expending the covered assistance

Category III Train/hire participants in a HUD Youthbuild-like program being carried out in the metropolitan area or Non-metropolitan County in which the covered assistance is expended

Category IV Train/hire other Section 3 residents

II. Preference for Section 3 Business Concerns in Contracting Opportunities

Category I Businesses

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 and whose full-time permanent workforce includes 30 percent of these persons as employees (or 30% of persons who were Section 3 residents within 3 years of their first employment)

Category II Businesses

Business concerns that are 51 percent or more owned by residents of other housing developments or developments managed by the housing authority that is expending the Section 3 covered assistance and whose full-time, permanent workforce includes 30 percent of these persons as employees (or 30% of persons who were Section 3 residents within 3 years of their first employment)

Category III Businesses

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

Category IV Businesses

Business concerns that are 51 percent or more owned by residents of other housing developments or developments managed by the housing authority that is expending the Section 3 covered assistance

Category V Businesses

HUD Youthbuild-like programs being carried out in the metropolitan area in which the Section 3 covered assistance is expended

Category VI Businesses

Business concerns that are 51 percent or more owned by Section 3 residents and:

i. whose permanent, full-time workforce includes no less than 30 percent Section 3 residents; or
ii. that subcontract 20 percent or more of the total amount of the contract (including modifications) and subcontracts 25 percent of the subcontracted amount to Section 3 business concerns

Category VII Businesses

Business concerns that are 51 percent or more owned by Section 3 residents

NOTE: For contracts or purchase orders $100,000 or less, other economic opportunities can be identified without regard for the Harris County Housing Authority's preference requirements.

SECTION 3 COMPLIANCE REQUIREMENTS

Hiring

A. Background

1. The Section 3 regulations provide that recipients, their contractors, and any subcontractors demonstrate compliance by employing Section 3 residents as 5% of the aggregate number of new hires.

2. The Section 3 Regulations, at CFR Part 135, require that in affordable housing programs, compliance efforts shall be directed to provide training and employment opportunities to Section 3 residents in accordance with the HCHA preference tier structure.
3. If a new hire is needed and a Section 3 resident is identified, that Section 3 resident will be required to submit evidence of Section 3 status to the recipient, contractor or subcontractor.
4. The Harris County Housing Authority requires a preference for hiring from the development where work is being performed. However, the Harris County Housing Authority will not require a vendor to hire from the development at the site if:
    a. A pre-identified list of Section 3 residents from a job site contains no persons qualified to perform the work. Qualified residents from other developments shall then be considered.
    b. The vendor's workforce is adequate to do the job and no new hiring is needed. In the event that no new hires are needed, vendors must pursue other avenues of compliance as set forth in the Harris County Housing Authority's preference tier structure.

B. Compliance

1. As part of each bid or proposal submitted, the respondent must document their workforce by position. Such information will be re-verified at the commencement of the contract.
2. Vendors will be required to submit documentation in the form of payroll forms submitted weekly that clearly identify the Section 3 hires. The vendor must comply with the Section 3 requirement throughout the life of the contract. Harris County Housing will periodically audit this information. Failure to comply with the weekly submittal of payroll shall result in the delay of payment.
3. Harris County Housing Authority residents by virtue of their income are Section 3 residents. Contractors employing Harris County Housing Authority residents must retain documentation that demonstrates any Harris County Housing Authority residents hired to meet Section 3 employment goals are:
    a. identified on the lease of household, that is lease compliant; and
    b. able to provide to the contractor or subcontractor the client number for the household where Harris County Housing Authority residency is claimed. This client number must appear on the certified payrolls submitted by the vendor to verify a Section 3 hire.
4. Non-Harris County Housing Authority households claiming Section 3 status must be prepared to submit evidence of income and residency in Harris County at the time of hire. As part of the Section 3 compliance process, vendors will be required to document that employees hired meet the residency and income requirements.

Contracting

A. Background

1. The Section 3 Regulations, at 24 CFR Part 135, provide that the Harris County Housing Authority, its contractors and subcontractors may demonstrate compliance by awarding contracts to Section 3 business concerns or to vendors who contract with such firms.
2. Harris County Housing Authority's contracting goals require that Section 3 firms receive at least:
    a. 10 percent of the total dollar of all Section 3 covered contracts for building trades work for maintenance, repair, modernization or development of public or Indian housing; or
    b. 10 percent of the total dollar amount of all Section 3 covered contracts for building trades work arising in connection with housing rehabilitation, housing construction and other public construction; and
    c. 3 percent of the total dollar amount of all other Section 3 covered contracts.
3. Goals apply to the entire amount of Section 3 covered assistance awarded to a recipient in any federal fiscal year (FFY), October 1- September 30. Correspondingly, Harris County Housing Authority's goals shall apply to the total dollar amount of each contract or purchase order.

4. Recipients that award contracts to contractors that will provide training or hiring, must ensure that contractors provide training, employment and contracting opportunities to Section 3 residents and Section 3 business concerns.
5. Efforts shall be directed to award contracts to Section 3 business concerns according to HCHA preference categories.

B. Compliance

1. Business concerns claiming Section 3 status based on ownership and workforce or workforce only (as applicable) must meet that status at the time the bid or proposal is submitted to the Harris County Housing Authority.
2. Anyone claiming to be a Section 3 resident or business concern shall be required, as set forth by procedure, to provide evidence of such status.
3. Pursuant to 24 CFR 135.36 (c) any firm, prime or subcontractor claiming Section 3 status must demonstrate to the Authority's satisfaction that the business concern is responsible and has the ability to complete the work under the terms and conditions of the proposed contract. In evaluating firms under this provision the Authority will examine:
    a. the work history and prior performance of the firm;
    b. the requirements of the job verses the skills evidenced by the firm through its owners, officers, principals, and key staff;
    c. technical and logistical capacity to complete the work considering contracts already awarded to the firm by the Authority or others;
    d. bonding capacity and ability to obtain required insurance (with allowances for disadvantaged or startup firms);
    e. evidence of past sanctions imposed by the Authority or others; and
    f. evidence that the firm, its principals, associates, partners, subcontractors or others have not acted or colluded in order to circumvent the compliance process by structuring contractual or other relationships or engaging in practices designed to comply with Section 3 only to obtain the preference without regard to the work requirements of the job.
4. A business concern need not hire to be considered a Section 3 business provided that:
    a. the business concern is 51 % or more owned by a Section 3 resident; or
    b. the business concern's workforce consists of sufficient numbers of Section 3 residents to qualify the vendor as a Section 3 business (30% or more of the full-time workforce consists of Section 3 residents, or persons who were Section 3 residents within 3 years of first employment); or
    c. the business concern subcontracts 20% or more of the total amount of the contract (including modifications) and in turn subcontracts 25% of the subcontracted amount to Section 3 business concerns (25% of20%); or
5. After award of a contract, if a business concern must hire to maintain the Section 3 workforce percentage, new hiring efforts must be made in accordance with the Harris County Housing Authority preference tier for hiring (Category I).
6. If a business concern claims Section 3 status by virtue of workforce composition, documentation of the 30% workforce requirement must be submitted to the Authority as part of the response to the bid, quote, or proposal. Further, the firm must maintain the Section 3 workforce percentage throughout the life of the contract. Workforce composition is subject to audit.
7. A business concern (including joint-ventures) seeking to qualify for a Section 3 preference shall certify and submit evidence that they are entitled to the applicable Section 3 preference and that they are a Section 3 business concern as defined in 24 CFR, Part 135 and by the Harris County Housing Authority pursuant to this policy. Prime or subcontractors must submit documentation (including workforce composition data) as part of any bid, quote, or proposal submitted to the Harris County Housing Authority. Additional documentation is required for joint-ventures.

8. Firms that claim Section 3 business status by subcontracting (25% of 20%) of the total contract) to other Section 3 businesses must require that the subcontractor(s) provide ownership or workforce documentation as applicable. The prime contractors must keep such records on file and available for review by the Authority. Such documentation must also be submitted as part of any bid, quote or proposal.
9. Subcontractors identified by any prime contractor claiming Section 3 status per item 6 must be a Section 3 business by ownership and/or workforce as defined in this policy. Subcontractors used by prime contractors to comply with item 6 cannot claim Section 3 status by further subcontracting.
10. Section 3 Joint-Ventures - to meet Section 3 contracting goals the Authority is permitted to contract with an association of firms as least one of which meets the Authority's definition of a Section 3 business concern. A definition of a joint venture is provided in the definition section of this policy. Compliance requirements for joint-ventures are discussed below.
11. Joint-Ventures are subject to the following documentation requirements:
    a. The joint-venture agreement must be in writing and must be submitted as part of the response to any bid or proposal solicited by the Harris County Housing Authority. In order for the Authority to evaluate the "adequacy" and "capacity", the agreement must describe in sufficient detail the area(s) of work assigned to each member of the joint-venture.
    b. The joint-venture agreement must reference a completed and fully executed joint-venture certification, as provided by the Authority, which must also be attached to the joint-venture agreement as an exhibit.
    c. The Harris County Housing Authority requires that the Section 3 joint-venture partner is a bona-fide Section 3 business; therefore, the joint-venture shall provide documentation that shows that the Section 3 partner meets the ownership and workforce, or workforce requirements established in this policy. Section 3 joint-venture partners cannot use subcontracting to establish their status as a Section 3 business concern.
    d. Section 3 requires that the joint-venture partner be responsible for a clearly defined portion of the work. Proposals or bids must specify the labor hours assigned to and the compensation to be received by the Section 3 joint-venture firm.
    e. Section 3 firms in the joint-venture must be qualified to perform the scope of work and have the capacity to complete the work assigned under the joint-venture agreement (see item b above).

Bid or Proposal Evaluation

A. Vendors who fail to address Section 3 requirements will be deemed nonresponsive. This means that in the proposal or bid documents submitted to the Harris County Housing Authority, the Contractor's Affidavit and Compliance commitment must be completed including applicable attachments and supporting documentation to support claims of compliance by hiring, contracting, or other economic opportunities.

B. After written notice from the Harris County Housing Authority specifying the defects in the Section 3 information, vendors will be given no more than 5 business days to complete the form and provide all required documents. Failure to respond within the 5 days will result in the Authority declaring the bidder or respondent non-responsive. The contract or bid will then be awarded to the next lowest bidder or to the respondent with the next highest score. Where the selection is a qualifications-based procurement, the Harris County Housing Authority will award to the firm that is the next highest ranked.

DEFINITIONS

NEW HIRES- Persons selected to fill full-time, temporary or seasonal employment opportunities.

RESIDENT OWNED BUSINESS (ROB)- A ROB is a business concern owned or controlled by affordable housing residents, that is: (a) at least 51 % owned by one or more affordable housing residents; and (b) whose management and daily business operations are controlled by one or more such individuals. For the purpose of Section 3 compliance, a ROB must also meet the Housing Authority's definitions of a Section 3 business concern as described below.

EMPLOYMENT OPPORTUNITIES GENERATED BY SECTION 3 COVERED ASSISTANCE- All employment opportunities generated by the expenditure of Section 3 covered PIH assistance (i.e. operating assistance, development assistance, and modernization assistance) and with respect to Section 3 covered housing and community development assistance, all employment opportunities arising in connection with Section 3 covered projects, including management and administrative jobs (including architectural, engineering, or related professional services and jobs directly related to administrative support of these activities) connected with the Section 3 covered project.

RECIPIENT- Any entity which receives Section 3 covered assistance, directly from HUD or from another recipient and includes, but is not limited to, any State, unit of local government, PHA, IHA, Indian Tribe, or other public body, public or private nonprofit organization, private agency or institution, mortgagor, developer, limited dividend sponsor, builder, property manager, community housing development organization, resident management corporation, resident council, or cooperative association. Recipient also includes any successor, assignee, or transferee of any such entity, but does not include any ultimate beneficiary under the HUD program to which Section 3 applies and does not include contractors.

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

SECTION 3 BUSINESS CONCERN- As defined by the Harris County Housing Authority, a Section 3 business concern is one:

A. That is fifty-one (51 %) or more owned by Section 3 residents; or
B. Whose full-time employees includes persons, at least 30 percent of whom are current Section 3 residents, or were Section 3 residents within three (3) years of the date of first employment with the business concern; or
C. That provides evidence of a commitment to: (1) subcontract 25 percent or more of the total amount of the contract (including any modification); and (2) in turn subcontracts in excess of 25 percent of the amount from (1) to Section 3 business concerns as defined in A or B (25% of 20%).

   Example: If the contract amount is $1,000,000, vendor must subcontract at least 20% or $200,000. Of the $200,000, 25% or $50,000 must go to Section 3 business concern(s) as defined in A or B.

SECTION 3 CLAUSE- The contract provisions and sanction set forth in 24 CFR 135.8.

SECTION 3 COVERED ACTIVITY- Any activity that is funded by Section 3 covered assistance including Affordable housing assistance.

SECTION 3 COVERED ASSISTANCE- There are no dollar amount thresholds for PIH (Public and Indian Housing) funded Section 3 covered activities. Section 3 applies to all contractors and

subcontractors performing work in connection with the following assistance regardless of the amount of the contract or subcontract:

- Public and Indian housing development assistance provided pursuant to Section 5 of the 1937 Act;
- Public and Indian housing operating assistance provided pursuant to Section 9 of the 1937 Act;
- Public and Indian housing modernization assistance provided pursuant to Section 14 of the 1937 Act;
- Section 8 assistance for work arising in connection with; housing rehabilitation, housing construction, or other public construction projects.

SECTION 3 COVERED CONTRACT- A contract or subcontract (including a professional service contract) awarded by a recipient or contractor for work generated by the expenditure of Section 3 covered assistance or for work arising in connection with a Section 3 covered proj ect. "Section 3 covered contracts" do not include contracts for the purchase of supplies and materials except, whenever a contract for materials includes the installation of the materials, the contract constitutes a "Section 3 covered contract."

SECTION 3 COVERED PROJECT- The construction, reconstruction, conversion, or rehabilitation of housing (including reduction and abatement of lead-based paint hazards), other public construction which includes buildings or improvements (regardless of ownership) assisted with housing or community development assistance.

SECTION 3 JOINT VENTURE- An association of business concerns, one of which qualifies as a Section 3 business concern, formed by written joint venture agreement to engage in and carry out a specific business venture for which purpose the business concerns combine their efforts, resources, and skills for joint profit, but not necessarily on a continuing or permanent basis for conducting business generally, and for which the Section 3 business concern:

- Is responsible for a clearly defined portion of the work to be performed and holds management responsibilities in the joint venture; and
- Performs at least 25% of the work and is contractually entitled to compensation proportional to its work.

SECTION 3 RESIDENT-

A. An affordable housing resident or
B. An individual who resides in Harris County and who meets the following criteria:
    i. Low-income persons-families (or single persons) whose incomes do not exceed 80 per centum of the median income for the area.
    ii. Very low-income persons-families (or single persons) whose incomes do not exceed 50 per centum of the median income for the area.

HARRIS COUNTY HOUSING AUTHORITY
Ethics Policy

Effective: August 15, 2012
Last Revised: August 5, 2015

INDEX

A. Purpose
B. Enforcement
C. Ethics Policy
- Economic Benefit
- Unfair Participation
- Gifts
- Confidential Information
- Representation of Private Interests
- Outside Employment
- Authority Property and Resources
- Political Activity
- Third-Party Actions
- Interests in Contracts
- Disclosure, Determination, and Resolution of Conflicts and Violations
- Interpretation
- Annual Trainings

D. Sources of Law and Policy
- Texas Housing Authorities Law
- Local Public Official Conflict of Interest
- Texas Nepotism Law
- HUD Annual Contributions Contract

A. PURPOSE

As a county housing authority and public corporation, the Harris County Housing Authority ("Authority") is obligated to achieve and maintain certain standards of ethics under state law and under its Annual Contributions Contract ("ACC") with the U. S. Department of Housing and Urban Development ("HUD"). To achieve the highest standard of ethics and propriety, the Board of Commissioners adopted and established an Ethics Policy on August 15, 2012, to describe in a single document the various obligations of the Authority prescribed by federal and state law, and its contractual obligations with HUD. The purpose of the Ethics Policy is to maintain the reputation and goodwill of the Authority in Harris County and the state of Texas by ensuring that the public and other governmental entities have confidence in the integrity, independence, and impartiality of the commissioners, officers, employees, and other contractors of the Authority.

B. ENFORCEMENT

The board of commissioners shall recommend to any commissioner appropriate action to remediate or resolve any conflict or violation or shall refer to the Harris County Attorney's Office the facts and issues regarding any unresolved conflict or violation by a

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commissioner that could constitute inefficiency, neglect of duty, or misconduct in office that might justify removal of the commissioner from office. The board of commissioners shall direct the executive director to remediate or resolve any conflict or violation involving an Authority employee. The executive director may take appropriate action to remedy or resolve an employee conflict or violation, including disciplinary action under the Employee Handbook.

C. ETHICS POLICY

All commissioners and employees shall abide by the provisions of Texas State law and the HUD ACC contained in the Sources of Law and Policy section below. To the extent allowed by federal or state law or the HUD ACC, the following rules shall further regulate the conduct of commissioners and employees to avoid the appearance or risk of impropriety:

Economic Benefit

A commissioner or employee shall not take any official action that he or she knows is likely to affect the economic interest of the commissioner or employee or their immediate family; an outside client or customer; a household member; the outside employer or a parent, child or spouse; a business entity or its affiliate of the commissioner or employee or their immediate family; a person or business entity from whom the commissioner or employee, or a spouse, has, within the previous 12 months, solicited, received and not rejected, or accepted an offer of employment, or with whom the commissioner or employee, or a spouse, has engaged in negotiations pertaining to business opportunities. Any commissioner or employee shall disclose such a relationship or interest and refrain from participation in any discussion or official action in the affected matter. A commissioner who is required to refrain from participation or action under this Section shall not be counted as "absent" for purposes of making a quorum under Article III, Section 7 of the Authority's Bylaws, because of the commissioner's refrainment.

Unfair Participation

A commissioner or employee may not use his or her official position to unfairly advance or impede private interests, or to grant or secure, or attempt to grant or secure, for any person, including himself or herself, any form of special consideration, treatment, exemption, or advantage beyond that which is lawfully available to other persons. A commissioner or employee shall not acquire an interest in, or acquire an interest affected by, any contract, transaction, decision or other matter, if the commissioner or employee knows that the interest will be affected by the impending official action by the Authority. A commissioner or employee may not enter into any agreement or understanding with any person that official action by the commissioner or employee will be rewarded or reciprocated by the other person. A commissioner or employee shall not appoint or employ, or vote to appoint or employ, any relative within the third degree of consanguinity or second degree of affinity to any office or position within the Authority. No commissioner or employee shall supervise a relative in the third degree of consanguinity or second degree of affinity. If an employee, because of marriage,

promotion, reorganization, or otherwise, is placed into the line of supervision of a proscribed relative, one of the employees must be reassigned or other arrangements made for supervision. Any commissioner or employee shall disclose such a relationship or interest and refrain from participation in any discussion or official action in the affected matter.

Gifts

A commissioner or employee, and second degree relatives or outside business associates, shall not solicit, accept, or agree to accept any gift to benefit for himself or herself or an interested business entity that reasonably tends to influence or reward official conduct or that the commissioner or employee knows is being offered with the intent to influence or reward official conduct. A commissioner or employee shall not solicit any gift or benefit but may accept or agree to accept a non-cash gift of nominal value and meals in an individual expense of $50 or less at any occurrence from any individual or business entity doing or seeking to do business with the Authority. However, except as provided in the sentence immediately below, such gifts may not in aggregate exceed $250 during any 12-month period. Gifts of reasonable value related to a special occasion and the relationship between the donor and recipient, reasonable public awards, or rewards for meritorious service or professional achievement, scholarships and fellowships, admissions to events in his or her official capacity or a spouse's position, and solicitations for civic or charitable causes are excluded from this rule.

Confidential Information

A commissioner or employee shall not use his or her official position to obtain official information about any person or entity for any purpose other than in the performance of official duties. A commissioner or employee shall not intentionally, knowingly, or recklessly disclose any confidential information concerning the property, operations, policies, affairs, or tenants of the Authority excepted as permitted by the Texas Public Information Law or applicable federal law or regulation.

Representation of Private Interests

A commissioner or employee shall not represent any person, group, or entity before the Authority's board of commissioners or before staff having policy-making or decision-making responsibility. A commissioner or employee shall not assert the prestige of the commissioner's or employee's position for the purpose of advancing private interests or state, or imply that he or she is able to influence Authority action on any basis other than the merits.

Outside Employment

A commissioner or employee shall not solicit, accept, or engage in concurrent outside employment which could be reasonably expected to impair independence of judgment in or faithful performance of official duties. A commissioner or employee shall not provide services to an outside employer related to the commissioner or employee's official duties. A commissioner or employee shall disclose any outside employment to the Authority board of commissioners upon initial appointment and annually thereafter.

Authority Property and Resources
A commissioner or employee shall not use, request, or permit the use of Authority facilities, personnel, vehicles, equipment, tools, supplies, property, or resources for personal, private, or political activities or purposes.

Political Activity
A commissioner or employee shall not induce or attempt to induce any commissioner or employee to participate in a partisan election campaign, contribute to a candidate or political action committee, or engage in any other political activity relating to a particular party, candidate, or issue, or to refrain from engaging in any lawful political activity. A commissioner or employee may encourage another to vote generally. A commissioner or employee shall not accept any compensation for services in any political activity related to any federal, state or local election for a candidate or issue.

Third-Party Actions
A commissioner or employee shall not assist or induce, or attempt to assist or induce, any person to violate any provision in the Ethics Policy. A commissioner or employee shall not circumvent the Ethics Policy through the acts of another person.

Interest in Contracts
A commissioner or employee shall not have a private or personal financial interest in any contract with the Authority or in the sale to the Authority of any land, materials, supplies, or service. A private or personal financial interest arises when a party to the contract or sale involves the commissioner or employee, or a parent, child or spouse, or a business entity in which the commissioner or employee, or a parent, child or spouse, owns 10% of the voting stock or shares, or of the fair market value of the business entity, or a business entity that is a subcontractor on an Authority contract, a partner, or a parent, or subsidiary business entity.

Disclosure, Determination, and Resolution of Conflicts and Violations
A commissioner or employee shall disclose any known conflicts of interest, proscribed relationships, or apparent or potential violations of the laws, HUD's ACC, or Ethics Policy to the board of commissioners and executive director upon initial appointment or employment and annually upon the beginning of each fiscal year. The Authority's counsel shall prepare disclosure forms, and amendments as necessary or reasonable for approval of the board of commissioners. The board of commissioners shall submit all disclosure forms to Authority counsel for review. Authority counsel shall determine whether there is any actual or potential conflict or violation of the laws, HUD's ACC, or Ethics Policy, and recommend action by the board of commissioners or executive director to resolve any conflict or violation.

Interpretation
Actions subject to the Ethics Policy shall be opined by the counsel to the Authority based on the known facts and issues and reported to the board of commissioners and executive

director with recommended resolution of a conflict or violation of the law or general rules.

Annual Trainings
Commissioners are required to attend annual program and Board of Commissioners training to review the requirements of this Ethics Policy and their other responsibilities as Commissioners for Harris County Housing Authority.

D. SOURCES OF LAW AND POLICY

Certain Texas laws govern the ethics of commissioners and employees of housing authorities. The Ethics Policy will be amended automatically to incorporate any legislative amendments to these statutes that become law.

Texas Housing Authorities Law

The Texas Housing Authorities Law, Tex. Local Government Code, Chapter 392, includes two provisions regarding conflicts of interest affecting commissioners and employees:

Sec. 392.042. Interested Commissioners.
(a) In this section, "housing project" includes, in addition to the works or undertakings described by Subdivision (6) of Section 392.002:

(1) a work or undertaking implemented for a reason described by Subdivision (6) of Section 392.002 that is financed in any way by public funds or tax-exempt revenue bonds; or

(2) a building over which the housing authority has jurisdiction and of which a part is reserved for occupancy by persons who receive income or rental supplements from a governmental entity.

(b) Except as provided by Subsection (c), a commissioner of an authority may not have dealings with a housing project for pecuniary gain and may not own, acquire, or control a direct or indirect interest in a:

(1) housing project;

(2) property included or planned to be included in a housing project;

(3) contract or proposed contract for the sale of land to be used for a housing project;

(4) contract or proposed contract for the construction of a housing project; or

(5) contract or proposed contract for the sale of materials or services to be furnished or used in connection with a housing project.

(c) A commissioner may:

(1) manage a housing project;

(2) own, acquire, or control a management company that renders management services to a housing project;

(3) continue to own or control an interest in a housing project held by the commissioner before the commissioner's term of office began; or

(4) own, acquire, or control an interest in, or have dealings with, a housing project over which the commissioner's housing authority does not have jurisdiction.

(d) If a commissioner manages, owns, acquires, or controls a direct or indirect interest in property included or planned to be included in a housing project or has any other dealings for pecuniary gain with a housing project, the commissioner shall immediately disclose the interest or dealings to the authority in writing. The disclosure shall be entered in the minutes of the authority. The failure to disclose the interest constitutes misconduct of office.

(e) A commissioner who knowingly or intentionally violates Subsection (b) or (d) commits an offense. An offense under this subsection is a felony of the third degree.

(f) A person finally convicted under Subsection (e) is ineligible for future employment with the state, a political subdivision of the state, or a public corporation formed under the authority of the state or a political subdivision of the state.

§ 392.043. Interested Employees

(a) Except as provided by Subsection (b), (c), or (f), an employee of an authority may not have dealings with a housing project for pecuniary gain and may not own, acquire, or control a direct or indirect interest in a:

(1) housing project;

(2) property included or planned to be included in a housing project;

(3) contract or proposed contract for the sale of land to be used for a housing project;

(4) contract or proposed contract for the construction of a housing project; or

(5) contract or proposed contract for the sale of materials or services to be furnished or used in connection with a housing project.

(b) An employee may not have any dealings with a housing project for pecuniary gain except in the performance of duties as an employee of the housing authority.

(c) Except as otherwise permitted by this chapter or another law, an employee of an authority may not be employed by or otherwise contract to provide services to another authority unless the first authority gives its written consent to the employment or contract. An employee of an authority who is employed by or who contracts to provide services to another authority under this subsection does not violate Subsection (a) or (b).

(d) An employee who knowingly or intentionally violates Subsection (a) or (c) commits an offense. An offense under this subsection is a felony of the third degree.

(e) A person finally convicted under Subsection (d) is ineligible for future employment with the state, a political subdivision of the state, or a public corporation formed under the authority of the state or a political subdivision of the state.

(f) An employee of an authority may be a party to or otherwise participate in a contract or agreement for assistance under a housing program, including a contract or agreement for public housing, Section 8 housing assistance, low-interest home loans, lease-purchase assistance, or down payment assistance, to the same extent as a member of the public if the employee qualifies for assistance under the program.

(g) In this section, "Section 8 housing assistance" means housing assistance provided under Section 8, United States Housing Act of 1937 (42 U.S.C. Section 1437f).

<u>Local Public Official Conflict of Interest</u>

The Texas Government Code, Chapter 171, establishes conflict of interest boundaries for local public officials. Those applicable to housing authority commissioners and officers are included below:

§ 171.001. Definitions
In this chapter:
(1) "Local public official" means a member of the governing body or another officer, whether elected, appointed, paid, or unpaid, of any district (including a school district), county, municipality, precinct, central appraisal district, transit authority or district, or other local governmental entity who exercises responsibilities beyond those that are advisory in nature.
(2) "Business entity" means a sole proprietorship, partnership, firm, corporation, holding company, joint-stock company, receivership, trust, or any other entity recognized by law.

§ 171.002. Substantial Interest in Business Entity
(a) For purposes of this chapter, a person has a substantial interest in a business entity if:
(1) the person owns 10 percent or more of the voting stock or shares of the business entity or owns either 10 percent or more or $15,000 or more of the fair market value of the business entity; or
(2) funds received by the person from the business entity exceed 10 percent of the person's gross income for the previous year.
(b) A person has a substantial interest in real property if the interest is an equitable or legal ownership with a fair market value of $2,500 or more.
(c) A local public official is considered to have a substantial interest under this section if a person related to the official in the first degree by consanguinity or affinity, as determined under Chapter 573, Government Code, has a substantial interest under this section.

§ 171.003. Prohibited Acts; Penalty
(a) A local public official commits an offense if the official knowingly:
(1) violates Section 171.004;
(2) acts as surety for a business entity that has work, business, or a contract with the governmental entity; or
(3) acts as surety on any official bond required of an officer of the governmental entity.
(b) An offense under this section is a Class A misdemeanor.

§ 171.004. Affidavit and Abstention From Voting Required
(a) If a local public official has a substantial interest in a business entity or in real property, the official shall file, before a vote or decision on any matter involving the business entity or the real property, an affidavit stating the nature and extent of the interest and shall abstain from further participation in the matter if:
(1) in the case of a substantial interest in a business entity the action on the matter will have a special economic effect on the business entity that is distinguishable from the effect on the public; or

(2) in the case of a substantial interest in real property, it is reasonably foreseeable that an action on the matter will have a special economic effect on the value of the property, distinguishable from its effect on the public.

(b) The affidavit must be filed with the official record keeper of the governmental entity.

(c) If a local public official is required to file and does file an affidavit under Subsection (a), the official is not required to abstain from further participation in the matter requiring the affidavit if a majority of the members of the governmental entity of which the official is a member is composed of persons who are likewise required to file and who do file affidavits of similar interests on the same official action.

§ 171.005. Voting on Budget

(a) The governing body of a governmental entity shall take a separate vote on any budget item specifically dedicated to a contract with a business entity in which a member of the governing body has a substantial interest.

(b) Except as provided by Section 171.004(c), the affected member may not participate in that separate vote. The member may vote on a final budget if:

(1) the member has complied with this chapter; and

(2) the matter in which the member is concerned has been resolved.

§ 171.006. Effect of Violation of Chapter

The finding by a court of a violation under this chapter does not render an action of the governing body voidable unless the measure that was the subject of an action involving a conflict of interest would not have passed the governing body without the vote of the person who violated the chapter.

§ 171.007. Common Law Preempted; Cumulative of Municipal Provisions

(a) This chapter preempts the common law of conflict of interests as applied to local public officials.

(b) This chapter is cumulative of municipal charter provisions and municipal ordinances defining and prohibiting conflicts of interests.

§ 171.009. Service on Board of Corporation for No Compensation

It shall be lawful for a local public official to serve as a member of the board of directors of private, nonprofit corporations when such officials receive no compensation or other remuneration from the nonprofit corporation or other nonprofit entity.

Texas Nepotism Law

The Texas Nepotism Law, Texas Government Code, Chapter 573, limits the relationships of a public official to employees and candidates for public positions:

§ 573.001. Definitions

In this chapter:

(1) "Candidate" has the meaning assigned by Section 251.001, Election Code.

(2) "Position" includes an office, clerkship, employment, or duty.

(3) "Public official" means:

(A) an officer of this state or of a district, county, municipality, precinct, school district, or other political subdivision of this state;
(B) an officer or member of a board of this state or of a district, county, municipality, school district, or other political subdivision of this state; or
(C) a judge of a court created by or under a statute of this state.

§ 573.002. Degrees of Relationship
Except as provided by Section 573.043, this chapter applies to relationships within the third degree by consanguinity or within the second degree by affinity.

SUBCHAPTER B. RELATIONSHIPS BY CONSANGUINITY OR BY AFFINITY

§ 573.021. Method of Computing Degree of Relationship
The degree of a relationship is computed by the civil law method.

§ 573.022. Determination of Consanguinity
(a) Two individuals are related to each other by consanguinity if:
(1) one is a descendant of the other; or
(2) they share a common ancestor.
(b) An adopted child is considered to be a child of the adoptive parent for this purpose.

§ 573.023. Computation of Degree of Consanguinity
(a) The degree of relationship by consanguinity between an individual and the individual's descendant is determined by the number of generations that separate them. A parent and child are related in the first degree, a grandparent and grandchild in the second degree, a great-grandparent and great-grandchild in the third degree and so on.
(b) If an individual and the individual's relative are related by consanguinity, but neither is descended from the other, the degree of relationship is determined by adding:
(1) the number of generations between the individual and the nearest common ancestor of the individual and the individual's relative; and
(2) the number of generations between the relative and the nearest common ancestor.
(c) An individual's relatives within the third degree by consanguinity are the individual's:
(1) parent or child (relatives in the first degree);
(2) brother, sister, grandparent, or grandchild (relatives in the second degree); and
(3) great-grandparent, great-grandchild, aunt who is a sister of a parent of the individual, uncle who is a brother of a parent of the individual, nephew who is a child of a brother or sister of the individual, or niece who is a child of a brother or sister of the individual (relatives in the third degree).

§ 573.024. Determination of Affinity
(a) Two individuals are related to each other by affinity if:
(1) they are married to each other; or
(2) the spouse of one of the individuals is related by consanguinity to the other individual.

(b) The ending of a marriage by divorce or the death of a spouse ends relationships by affinity created by that marriage unless a child of that marriage is living, in which case the marriage is considered to continue as long as a child of that marriage lives.
(c) Subsection (b) applies to a member of the board of trustees of or an officer of a school district only until the youngest child of the marriage reaches the age of 21 years.

§ 573.025. Computation of Degree of Affinity
(a) A husband and wife are related to each other in the first degree by affinity. For other relationships by affinity, the degree of relationship is the same as the degree of the underlying relationship by consanguinity. For example: if two individuals are related to each other in the second degree by consanguinity, the spouse of one of the individuals is related to the other individual in the second degree by affinity.
(b) An individual's relatives within the third degree by affinity are:

(1) anyone related by consanguinity to the individual's spouse in one of the ways named in Section 573.023(c); and
(2) the spouse of anyone related to the individual by consanguinity in one of the ways named in Section 573.023(c).

SUBCHAPTER C. NEPOTISM PROHIBITIONS

§ 573.041. Prohibition Applicable to Public Official
A public official may not appoint, confirm the appointment of, or vote for the appointment or confirmation of the appointment of an individual to a position that is to be directly or indirectly compensated from public funds or fees of office if:

(1) the individual is related to the public official within a degree described by Section 573.002; or
(2) the public official holds the appointment or confirmation authority as a member of a state or local board, the legislature, or a court and the individual is related to another member of that board, legislature, or court within a degree described by Section 573.002.

§ 573.062. Continuous Employment
(a) A nepotism prohibition prescribed by Section 573.041 or by a municipal charter or ordinance does not apply to an appointment, confirmation of an appointment, or vote for an appointment or confirmation of an appointment of an individual to a position if:

(1) the individual is employed in the position immediately before the election or appointment of the public official to whom the individual is related in a prohibited degree; and
(2) that prior employment of the individual is continuous for at least:
    (A) 30 days, if the public official is appointed;
    (B) six months, if the public official is elected at an election other than the general election for state and county officers; or
    (C) one year, if the public official is elected at the general election for state and county officers.

(b) If, under Subsection (a), an individual continues in a position, the public official to whom the individual is related in a prohibited degree may not participate in any

deliberation or voting on the appointment, reappointment, confirmation of the appointment or reappointment, employment, reemployment, change in status, compensation, or dismissal of the individual if that action applies only to the individual and is not taken regarding a bona fide class or category of employees.

SUBCHAPTER E. ENFORCEMENT

§ 573.081. Removal In General

(a) An individual who violates Subchapter C or Section 573.062(b) shall be removed from the individual's position. The removal must be made in accordance with the removal provisions in the constitution of this state, if applicable. If a provision of the constitution does not govern the removal, the removal must be by a quo warranto proceeding.
(b) A removal from a position shall be made immediately and summarily by the original appointing authority if a criminal conviction against the appointee for a violation of Subchapter C or Section 573.062(b) becomes final. If the removal is not made within 30 days after the date the conviction becomes final, the individual holding the position may be removed under Subsection (a).

§ 573.082. Removal by Quo Warranto Proceeding

(a) A quo warranto proceeding under this chapter must be brought by the attorney general in a district court in Travis County or in a district court of the county in which the defendant resides.
(b) The district or county attorney of the county in which a suit is filed under this section shall assist the attorney general at the attorney general's discretion.

§ 573.083. Withholding Payment of Compensation

A public official may not approve an account or draw or authorize the drawing of a warrant or order to pay the compensation of an ineligible individual if the official knows the individual is ineligible.

§ 573.084. Criminal Penalty

(a) An individual commits an offense involving official misconduct if the individual violates Subchapter C or Section 573.062(b) or 573.083.
(b) An offense under this section is a misdemeanor punishable by a fine not less than $100 or more than $1,000.

HUD Annual Contributions Contract

The Annual Contributions Contract (Form HUD-53012A) (ACC) between HUD and the Housing Authority prohibits certain interests involving commissioners and employees:

Section 19 – Conflict of Interest

(A)(1) In addition to any other applicable conflict of interest requirements, neither the Authority nor any of its contractors or their contractors may enter into any contract, subcontract, or arrangement in connection with a project under this ACC in which any of the following classes of people has an interest, direct or indirect, during his or her tenure or for one year thereafter:

(i) Any present or former member or officer of the governing body of the HA, or any member of the officer's immediate family. There shall be excepted from this prohibition any present or former tenant commissioner who does not serve on the governing body of a resident corporation, and who otherwise does not occupy a policymaking position with the resident corporation, the Authority or a business entity.

(ii) Any employee of the Authority who formulates policy or who influences decisions with respect to the project(s), or any member of the employee's immediate family, or the employee's partner.

(iii) Any public official, member of the local governing body, or State or local legislator, or any member of such individual's immediate family, who exercises functions or responsibilities with respect to the project(s) or the HA.

(2) Any member of these classes of persons must disclose the member's interest or prospective interest to the Authority and HUD.

(3) The requirements of this subsection (A)(1) may be waived by HUD for good cause, if permitted under State and local law. No person for whom a waiver is requested may exercise responsibilities or functions with respect to the contract to which the waiver pertains.

(4) The provisions of this subsection (A) shall not apply to the General Depository Agreement entered into with an institution regulated by a Federal agency, or to utility service for which rates are fixed or controlled by a State or local agency.

(5) Nothing in this section shall prohibit a tenant of the Authority from serving on the governing body of the HA.

(B)(1) The Authority may not hire an employee in connection with a project under this ACC if the prospective employee is an immediate family member of any person belonging to one of the following classes:

(i) Any present or former member or officer of the governing body of the HA. There shall be excepted from this prohibition any former tenant commissioner who does not serve on the governing body of a resident corporation, and who otherwise does not occupy a policymaking position with the HA.

(ii) Any employee of the Authority who formulates policy or who influences decisions with respect to the project(s).

(iii) Any public official, member of the local governing body, or State or local legislator, who exercises functions or responsibilities with respect to the project(s) or the HA.

(2) The prohibition referred to in subsection (B)(1) shall remain in effect throughout the class member's tenure and for one year thereafter.

(3) The class member shall disclose to the Authority and HUD the member's familial relationship to the prospective employee.

(4) The requirements of this subsection (B)(1) may be waived by the Authority Board of Commissioners for good cause, provided such waiver is permitted by State and local law.

(C) [applies only to an Indian Housing Authority]

(D) For purposes of this section, the term "immediate family member" means the spouse, mother, father, brother, sister, or child of a covered class member (whether related as a full blood relative, or as a "half" or "step" relative, e.g., a half-brother of stepchild).

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

Special Attention:

Public Housing Agencies (PHA)
Public Housing Hub Office Directors
Public Housing Program Center Directors
Regional Directors
Field Office Directors
Resident Management Corporations

NOTICE
PIH-2017-04 (HA)

Issued: March 3, 2017

Expires: Effective until amended, superseded, or rescinded

Cross References:
24 CFR Part 87, 2 CFR Part 200.450

Subject: Limitations on Payments to Influence Federal Transactions for PIH Programs and PHA Anti-Lobbying Certification and Disclosure Requirements

1. BACKGROUND AND PURPOSE

This Notice provides guidance for PHAs that receive federally appropriated funds exceeding $100,000. If a PHA has received over $100,000 in federally appropriated funds, in any PHA fiscal year, the PHA must submit Form HUD-50071 Certification of Payments to Influence Federal Transactions (Form HUD-50071), certifying that the PHA has not and will not make any prohibited payments from federal appropriated funds. Additionally, HUD requires these PHAs to submit Standard Form-LLL Disclosure of Lobbying Activities (SF-LLL), only if they have used non-federally appropriated funds for influencing or attempting to influence executive or legislative branch personnel in connection with new or renewal funding or regarding the formulation, modification, or adoption of policy or legislation.

This Notice clarifies the previous guidance provided in Notice PIH 98-59 regarding the limitations on the payment of funds to influence Federal transactions for the Public and Indian Housing Programs. It also clarifies the submission requirements for the Form HUD-50071 and SF-LLL.

2. APPLICABILITY

The certification and disclosure requirements apply to all PHAs (including MTW PHAs)

established under State law receiving federal appropriations, if the amount of federally appropriated funds exceed $100,000, in any PHA fiscal year. In the event a PHA's grant amounts are not large enough (i.e., $100,000 or less) to trigger the certification and disclosure requirements, the prohibition against the use of federally appropriated funds for lobbying activities still applies.

In accordance with the Lobbying Disclosure Act of 1995 (the Act), lobbying activities are defined as: lobbying contacts and efforts in support of such contacts, including preparation and planning activities; research and other background work that was intended, at the time it was performed, for use in contacts; and coordination with the lobbying activities of others. Under the Act, any oral, written, or electronic communication with covered officials regarding new or renewal funding or the formulation, modification, or adoption of policy or legislation constitutes a lobbying contact. Communications with covered officials relating to the administration or execution of a Federal program or policy are also included. Covered officials include, among others, members of Congress and executive officials, such as agency heads and deputies and assistant and deputy assistant secretaries.

PHAs are not prohibited from engaging in lobbying activities if the activities are funded with non-federally appropriated funds. However, disclosure requirements still apply.

PHAs' contributions to trade associations do not constitute lobbying activities under this Notice. Any lobbying activities conducted by a trade association shall be registered by that trade association's lobbyist. The certification and disclosure requirements in this Notice do not apply to PHA contributions to trade associations.

3. PROHIBITION ON PAYMENTS OF FEDERALLY APPROPRIATED FUNDS FOR LOBBYING ACTIVITIES

24 CFR Part 87 and 2 CFR Part 200.450 prohibit the use of any federally appropriated funds to influence or attempt to influence Federal officials in connection with any Federal contracts, grant, loan, or cooperative agreement. Collectively known as the Byrd Amendment, these requirements apply to Federal contracts, grants, and cooperative agreements exceeding $100,000 and Federal loan guarantees and loan insurance exceeding $150,000. Byrd Amendment requirements for PHAs are two-fold:

1. A PHA is required to certify that no federally appropriated funds will be or have been used to influence Federal employees, Members of Congress, and Congressional staff regarding specific grants or contracts (Form HUD-50071); and

2. If a PHA uses non-federally appropriated funds for lobbying on behalf of specific projects or proposals, the PHA is required to submit disclosure documentation (SF-LLL).

4. CERTICATION AND DISCLOSURE SUBMISSION REQUIREMENTS

If a PHA receives federally appropriated funds exceeding $100,000 in any PHA fiscal year,

the PHA must submit Form HUD-50071 certifying that the PHA has not and will not make any prohibited payment from federally appropriated funds.

These PHAs are also required to submit the SF-LLL if the PHA has used any non-federally appropriated funds to make a payment for lobbying activities or has agreed to make such payments.

HUD requires PHAs to submit lobbying certifications and disclosures to the offices from which they receive funds as a condition of the receipt of such funds.

5. RESPONSIBILITIES OF THE PHA

A. **Record Retention Requirements.** The PHA shall retain the original of Form HUD-50071 and a copy of SF-LLL, if applicable, in its files for a minimum of three years. The PHA shall forward a copy of the Form HUD-50071 and the original SF-LLL to the Field Office in accordance with PIH Lobbying Handbook 7570.1.

B. **Contractors.** Contractors shall submit to the PHA Form HUD-50071 and the SF-LLL, if applicable, for each contract exceeding $100,000. The PHA's contractor is responsible for ensuring that any of its subcontractors or other sub-recipients submit to the Contractor Form HUD-50071 and the SF-LLL for each subcontract or sub-grant exceeding $100,000. The Contractor shall provide subcontractor disclosure and certification forms to the PHA when applicable.

C. **Submission Responsibility.** It is the responsibility of the PHA to determine whether it is required to submit the Form HUD-50071 and SF-LLL to HUD in accordance with this Notice. The PHA is responsible for ensuring that its contractors, including architects, engineers, and other consultants which are contractors, comply with all certification and disclosure requirements.

D. **Submission Timing.** HUD requires PHAs to submit lobbying certifications and disclosures to the offices from which they receive funds as a condition of the receipt of such funds. For example:

   a. PHAs that receive Capital Fund awards are required to submit Form HUD-50071 and SF- LLL, if applicable, to the respective field office annually by the date identified and posted by HUD.
   b. PHAs must submit Form HUD-50071 and SF- LLL, if applicable, to the respective field office before a determination can be made about eligibility under the Operating Fund formula.

E. **MTW Agencies.** HUD requires MTW agencies to submit Form HUD-50071 and, if applicable, SF-LLL with their Annual MTW Plan. Notwithstanding, these Annual MTW Plan submissions do not preempt the PHA's requirement to submit Form HUD-50071 and SF-LLL, if applicable, in accordance with this Notice, including Capital Fund awards, Operating Fund formula, or any other federal funding source for which these

forms are required.

6. RESPONSIBILITIES OF HUD FIELD OFFICES

A. **Certification and Disclosure Review.** On an annual basis, when PHAs submit HUD Forms 52722 and 52723 to request operating funds, field office staff will: 1) verify receipt of the required certification (Form HUD-50071) and 2) check that the certification is complete and accurate. This review will take place before PHAs' operating subsidy eligibility determination is made. If a PHA is required to submit SF-LLL, the Field Office will also review the SF-LLL disclosure upon submission by PHAs.

When PHAs submit the Annual Capital Fund Formula Grant Submission, field office staff will: 1) verify receipt of the required certification (Form HUD-50071) and 2) check that the certification is complete and accurate. If a PHA is required to submit SF-LLL, the Field Office will also review disclosure SF-LLL upon submission by PHAs.

B. **File Documentation.** The Field Office shall retain copies of Form HUD-50071 certification and SF-LLL, if applicable, in the appropriate application or program file for a minimum of three years.

C. **Suspected Violations.** Field Offices shall be alert to possible violations including PHAs using federally appropriated funds for lobbying activities, submitting false information to HUD, and/or failing to submit the required forms.

If the suspected violation involves a violation of the lobbying prohibition or the submission of false statements, the Field Office shall refer violations to the Office of the Inspector General (OIG) for further investigation and to pursue administrative sanctions against responsible agency officials in accordance with 24 CFR §87.400. In the case of false statements, the Field Office shall also concurrently require the PHA to resubmit the statements with accurate information.

If the suspected violation involves a failure to file any required forms, the Field Office shall refer the violation to OIG after providing the PHA with a deadline for correcting the violation. If the PHA does not meet the deadline, the matter shall be referred to OIG. If the PHA files the required forms within the correction deadline provided, the Field Office may nevertheless refer the matter to OIG if it believes the violation was intentional or the result of such gross negligence that would warrant sanctions.

After reviewing a suspected violation, OIG will determine if criminal sanctions might be appropriate or, if not, may ask OGC to pursue an action under the False Claims Act Program Fraud Civil Remedies Act or to seek civil money penalties. In the event that further investigation or action is required, the issue will be escalated to the Departmental Enforcement Center (DEC).

7. CONTACT INFORMATION

For further information about this notice, PHAs may send an email to publichousingpolicyquestions@hud.gov.

8. PAPERWORK REDUCTION ACT

The information collections referenced in this Notice have been approved by OMB pursuant to the Paperwork Reduction Act under, OMB# 2577-0220 and OMB# 2577-0226.

/s/

Jemine A. Bryon
General Deputy Assistant Secretary for
Public and Indian Housing

DECLARATION – (REQUIRED SUBMITTAL)

_____
NAME

_____
TITLE

_____
CITY, STATE

_____
SUBMITTAL DATE

The undersigned, as Offeror, declares that the only persons interested in this Response are named herein, that no other person has any interest in this proposal, that this proposal is made without connection or arrangement with any other person, and that this proposal is in every respect fair, in good faith, and without collusion or fraud.

The Offeror further declares that he/she has complied in every respect with all of the instructions of Offerors, and has read all addenda, if any, has satisfied himself or herself fully relative to all matters and conditions with respect to the proposal.

The Offeror agrees, if this proposal is accepted, to execute such agreement as appropriate for the purpose of establishing a formal contractual relationship between the Offeror and **HCHA** for the performance of all requirements to which the proposal pertains.

The Offeror states that this proposal is based upon the proposal documents and amendments, if any.

Persons Interested in this Response:

Name	Identity of Interest
1.	
2.	
3.	

_____
NAME OF FIRM/INDIVIDUAL/CORPORATION

_____
SIGNATURE

_____
TITLE