



**REQUEST FOR PROPOSALS (RFP)**

**FOR**

**SECTION 3 LANDSCAPING AND GROUND MAINTENANCE  
SERVICES PILOT AT LINCOLN AND WHEATLEY**

**FOR**

**HOUSING AUTHORITY OF THE  
CITY OF SAN ANTONIO, TEXAS  
AND  
AFFILIATED ENTITIES**

**RFP No. 1005-988-36-3209**

**Prepared by:**

**Department of Procurement  
Of the  
San Antonio Housing Authority  
818 South Flores Street  
San Antonio, Texas 78204**

President & CEO ..... Lourdes Castro Ramirez

May 2010

**Request for Proposals  
For  
SECTION 3 LANDSCAPING AND GROUND MAINTENANCE SERVICES PILOT AT  
LINCOLN AND WHEATLEY**

**Date Issued: May 28, 2010**

The Housing Authority of the City of San Antonio, Texas and its affiliated entities d/b/a San Antonio Housing Authority ("SAHA") hereby invites proposals from independent contractors for the Section 3 landscaping and ground maintenance services pilot program at Lincoln Heights and Wheatley Courts properties as specified in this solicitation.

As a part of our social mission and federal mandate, SAHA is committed to providing economic, training and educational opportunities to the low income individuals in the communities we serve. All contractors are required to recruit and hire low income individuals for new positions and provide training & educational opportunities to the greatest extent feasible for these individuals.

This Request for Proposals (RFP) contains submission requirements, scope of services, period of services, terms and conditions and other pertinent information for submitting a proper and responsive proposal. Prospective proposers desiring any explanation or interpretation of the solicitation must request it at least seven (7) calendar days before the RFP submittal deadline. The request must be addressed to Charles Bode, Asst. Director of Procurement, at the address stated below. Any information given to a prospective proposer about this solicitation will be furnished to all other prospective proposers as a written amendment to the solicitation.

**A pre-submittal meeting will be held on June 22, 2010 at 10:00 A.M. Central Time at the SAHA'S Central Office, 818 South Flores, San Antonio, Texas 78214.**

All responses to the RFP must be enclosed in a sealed envelope and labeled as follows with the specific information: **RFP# 1005-988-36-3209, Section 3 Landscaping and Ground Maintenance Services Pilot Program, Due Date and Time: July 8, 2010, 11:00 A.M. (CST). The RFP response must be addressed to The San Antonio Housing Authority, Procurement Department, 818 South Flores, San Antonio, Texas 78204.**

Late submissions will not be accepted. Submissions will be held in confidence until the opening.

Submissions will be evaluated on the criteria stated in the RFP. After evaluation of the responses, the Contract will be awarded to the proposer/s representing the "Best Value" to SAHA after preferences for Section 3 business concerns are considered. The resulting Contract may be funded through Section 3 covered assistance and as such will be subject to Section 3, 24 CFR Part 135.

SAHA and its affiliated entities reserve the right to reject any and all submissions.

The SAN ANTONIO HOUSING AUTHORITY will receive proposals for the Section 3 Landscaping and Ground Maintenance Services Pilot Program at Lincoln & Wheatley until **11:00 A.M.** Central Time, **July 8, 2010**, at the San Antonio Housing Authority Office, 818 S. Flores, at which time and place all submittals will be opened.

The Request for Proposals can be obtained by calling 210-477-6059 or online at <http://www.saha.org> or <http://nahro.economicengine.com>.

**Contact Person:** Charles Bode  
Asst. Director of Procurement  
(210) 477-6172

**Notice:** Contact with members of the SAHA Board of Commissioners, or SAHA officers and employees other than the contact person shown above, prior to the execution of a contract with the successful proposer(s) could result in disqualification of your proposal. In fairness to all, prospective proposers during the RFP process SAHA will not meet in person with anyone representing a potential provider of these services to discuss this RFP other than at the pre-submittal meeting. This does not exclude meetings required to conduct business not related to the RFP, or possible personal presentations after written or electronic proposals have been received and evaluated.

HOUSING AUTHORITY OF THE  
CITY OF SAN ANTONIO, TEXAS

By: \_\_\_\_\_  
Lourdes Castro Ramirez  
President and CEO

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## INTRODUCTION

The San Antonio Housing Authority (SAHA) is a public housing agency created by resolution of the City of San Antonio in 1938 pursuant to the Texas Housing Authorities Law (now Chapter 392 of the Texas Local Government Code) and federal law. SAHA is a unit of government and its functions are essential governmental functions. The property of SAHA is used for essential public and governmental purposes and is exempt from all taxes, including sales tax on all its purchases of supplies and services.

SAHA enters into and executes contracts and other instruments that are necessary and convenient to the exercise of its powers. SAHA maintains contractual arrangements with United States Department of Housing and Urban Development (HUD) to manage and operate its low rent public housing program and administers the Section 8 Housing Assistance Payments Programs. SAHA programs are federally funded along with development and modernization grants and rental income.

Its primary activity is the ownership and management of over 6,300 public housing units. It also administers rental assistance for almost 12,000 privately owned rental units through the Section 8 program. It operates and manages its housing developments to provide decent, safe, sanitary and affordable housing to low income families, the elderly, and the disabled, and implements various programs designed and funded by HUD.

SAHA has created a number of affiliated public facility corporations (“PFCs”) pursuant to Chapter 303 of the Texas Local Government Code (the Public Facility Corporation Act). In some instances, these PFCs own projects. In other cases, PFCs or other related entities serve as partners in partnerships that have been awarded low-income housing tax credits. SAHA’s affiliated entities own and operate over 3,000 units of affordable housing.

SAHA staff also manages the San Antonio Housing Finance Corporation (“Finance Corporation”), which is primarily a conduit issuer of bonds for developers of affordable housing projects. The Finance Corporation was created pursuant to Chapter 394 of the Texas Local Government Code (the Texas Housing Finance Corporations Act). When used herein, “SAHA” shall include its affiliated entities.

## RFP INFORMATION AT A GLANCE

|   |   |
|---|---|
| SAHA CONTACT PERSON   | Charles Bode, Asst. Dir. Of Procurement<br>818 S. Flores<br>San Antonio, TX 78204-1400<br>charles_bode@saha.org<br>Phone: 210-477-6703 Fax: 210-477-6167  |
| HOW TO OBTAIN THE RFP DOCUMENTS ON THE APPLICABLE INTERNET SITE | <ol style="list-style-type: none"><li>1. Access <a href="http://www.saha.org">www.saha.org</a>.</li><li>2. Drag your pointer over "Business with SAHA" and click on "Current Bids".</li><li>3. Follow the listed directions or</li><li>4. Access <a href="http://nahro.economicengine.com">http://nahro.economicengine.com</a>.</li></ol> |
| HOW TO FULLY RESPOND TO THIS RFP BY SUBMITTING A PROPOSAL       | Submit 1 original and 3 exact copies of your proposal to the SAHA Procurement Dept. following the format as described under Item 5, Proposal Format.  |
| PRE-SUBMITTAL MEETING   | June 22, 2010 at 10:00 A.M.<br>SAHA Central Office, 818 S. Flores, San Antonio, TX 78204  |
| PROPOSAL SUBMITAL RETURN & DEADLINE                             | July 8, 2010 at 11:00 A.M.<br>SAHA Procurement Dept.<br>818 S. Flores, San Antonio, TX 78204  |
| ANTICIPATED APPROVAL BY THE BOARD                               | August, 2010  |

## REQUEST FOR PROPOSALS

### 1.0 GENERAL INFORMATION

**1.1 Statement of Purpose:** The Housing Authority of the City of San Antonio and its affiliated entities (SAHA) are seeking proposals from independent landscaping contractors with demonstrated professional competence and experience to provide a pilot program for Landscaping and Ground Maintenance Services at Lincoln Heights and Wheatley Courts under the HUD Section 3 program.

1.2 Prospective proposers acknowledge by downloading and receiving the RFP documents and/or by submitting a proposal that the submission of a proposal to SAHA is not a right by which to be awarded a contract, but merely is an offer by the prospective proposer to perform the requirements of the RFP documents in the event SAHA decides to consider to award a contract to that proposer.

**1.3 Definitions:** Throughout this Request for Proposals and all resulting documents, the terms below shall be defined as follows:

**1.3.1 “Best Value”** means that SAHA will in an evaluation of each proposal submittal, consider factors other than just cost in making the award decision.

**1.3.2 “Contracting Officer”** when named within an RFP document shall refer to the President and CEO.

**1.3.3 “Contract”** refers to the fully executed written agreement that ensues from the RFP. Whereas all RFP documents are included, by reference, as a part of the ensuing contract, when "contract" is referred to within an RFP document; such is referring to both the RFP documents and the ensuing contract document.

**1.3.4 “Contractor”** and the term "successful proposer" may be used interchangeably.

**1.3.5 “Day(s)”** unless otherwise specified, shall refer to calendar days.

**1.3.6 “HUD”** is the United States Department of Housing and Urban Development. HUD is the Federal agency from which SAHA receives funding; however, pertaining to this RFP, correspondences, including proposal submittals, received from each proposer must exhaust all provisions contained herein prior to contacting HUD (i.e. in the case of a protest).

**1.3.7 “Herein”** shall refer to all documents issued pursuant to the noted RFP, including the RFP documents and the attachments.

- 1.3.8** “**President & CEO**” is the SAHA President and Chief Executive Officer and/or Interim President and Chief Executive Officer.
- 1.3.9** “**Offer**” is the proposal submittal that the Proposer delivers to SAHA in response to the RFP.
- 1.3.10** “**Offeror,**” “**Offerors**” or “**Bidder(s)**” are the proposer or proposers.
- 1.3.11** “**Contract Administrator (CA)**” is the SAHA Director of Procurement or his/her designated representative.
- 1.3.12** “**Parties**” When “the parties,” “both parties” or “either party” is stated within the RFP documents or the contract, such refers to SAHA and the successful proposer(s).
- 1.3.13** “**Proposal,**” “**Proposal Submittal**” and/or “**Bid**” is the "hard copy" document that the proposer is required to, as detailed within the RFP document, deliver to SAHA.
- 1.3.14** “**Protestant**” is a prospective proposer or proposer(s) who feel(s) that he/she has been treated inequitably by SAHA and wishes SAHA to correct the inequitable condition or situation. To be eligible to file a protest with SAHA pertaining to an RFP or contract, the protestant must have been involved in the RFP process in some manner as a prospective proposer or proposer.
- 1.3.15** “**Prospective Proposer**” or “**Proposer**” A prospective proposer is a firm or individual who has been notified of the RFP solicitation and/or who has requested and/or received the RFP documents and is considering responding with a proposal; a proposer is a firm or individual who has submitted a proposal in response to the RFP. All terms and conditions shall apply equally to all prospective proposers as well as proposers, though prospective proposers may not, after the deadline set for receiving proposals, receive further notices pertaining to that RFP-meaning, certain notices are only delivered to proposers and not to prospective proposers.
- 1.3.16** “**Request For Proposals**” (**RFP**) is the competitive proposal process allowed by HUD, especially as defined within Chapter 7 of HUD Procurement Handbook 7460.8 REV 2.
- 1.3.17** “**RFP Document(s)**” When stated in the singular or the plural form, such refers to the body of documents, including attachments and the information posted on the [nahro.economicengine.com](http://nahro.economicengine.com) Internet site and [www.saha.org](http://www.saha.org), that SAHA makes available to all prospective proposers wherein are detailed SAHA's requirements.

- 1.3.18** “SAHA” is the Housing Authority of the City of San Antonio, Texas and all its affiliated entities. Unless otherwise defined herein or within the ensuing contract, whenever the term "SAHA" is used without clearly designating a responsible SAHA staff person, the proposer(s) may assume that responsibility for that item rests with the SAHA CA.
- 1.4 Non-Mandatory Pre-Proposal Conference:** A pre-proposal conference will be held on June 22, 2010 at 10:00 a.m. Central Time at SAHA Central Office, located at 818 South Flores, San Antonio, Texas. The purpose of this conference is to assist prospective proposers in the full understanding of the RFP documents so proposers are confident in submitting an appropriate proposal; therefore, at this conference, SAHA will conduct an overview of the RFP documents, including attachments. Because the purpose of this conference is to review the RFP documents, attendees should bring a copy of the RFP documents to this conference. **SAHA will not distribute at this conference any copies of the RFP documents.** Questions concerning the contents of the project and procedural aspects of the RFP will be answered at this time; however, the PM may require that some questions be delivered in writing prior to a response. Any questions not answered during the conference will be responded to in writing and an addendum posted on SAHA’s website: [www.saha.org](http://www.saha.org) and [nahro.economicengine.com](http://nahro.economicengine.com). All prospective proposers are encouraged to attend; however, if proposers do not plan to attend the conference, any questions or request for information must be submitted in writing to the PM seven (7) days prior to the proposal submission deadline.
- 1.5 Proposal Submission Deadline:** July 8, 2010 at 11:00 a.m. (Central Time) at SAHA Central Office, 818 S. Flores, San Antonio, Texas.
- 1.6 Proposer’s Responsibilities-Contact with SAHA:** It is the responsibility of the proposer to address all communication and correspondences pertaining to this RFP process to the CA only. Proposers must not make inquiry or communicate with any other SAHA staff member or official (including members of the Board of Commissioners) pertaining to this RFP. Failure to abide by this requirement may be cause for SAHA to not consider a proposal submittal received from any proposer who has not followed this directive. During the RFP solicitation process, the SAHA CA will not conduct any ex parte conversations which may give one prospective proposer an advantage over other prospective proposers.
- 1.7 Type of Contract resulting from RFP:** Firm fixed-price contract for a term of one (1) year with a routine service fee being the unit of measure for labor and materials in landscaping and maintaining the various property locations in compliance with all applicable laws and regulations and technical specifications included in this RFP. This routine service fee will be the total labor and material costs associated with routine service for landscaping and

ground maintenance. Unit Pricing will also be included for additional landscaping and ground maintenance services on an as needed basis. Unit pricing for the use of organic fertilizers, herbicides, pesticides and fire ant treatments will also be included in the Contract(s). The Contract(s) will not bind, nor purport to bind, SAHA for any contractual commitment in excess of the original contract period; however, SAHA, at its sole discretion, reserves the option to extend the contract for four (4) additional one (1) year terms. In the event that SAHA exercises such rights, all other terms, conditions, and provisions of the original contract will remain the same and shall apply during the extension period. SAHA will not accept all or none proposals; anticipates awarding to multiple Contractors and Contractors are not required to bid on all properties.

## **2.0 SAHA'S RESERVATION OF RIGHTS**

- 2.1** SAHA reserves the right to reject any or all proposals, to waive any informality in the RFP process, or to terminate the RFP process at any time, if deemed by SAHA to be in its best interests.
- 2.2** SAHA reserves the right not to award a contract pursuant to this RFP.
- 2.3** SAHA reserves the right to terminate a contract awarded pursuant to this RFP, at any time for its convenience upon 14 days written notice to the successful proposer(s).
- 2.4** SAHA reserves the right to determine the days, hours and locations that the successful proposer(s) shall provide the services called for in this RFP.
- 2.5** SAHA reserves the right to retain all proposals submitted and not permit withdrawal for a period of 90 days subsequent to the deadline for receiving proposals without the written consent from the CA.
- 2.6** SAHA reserves the right to negotiate the fees proposed by all proposers. If such negotiations are not, in the opinion of SAHA's CA successfully concluded within a reasonable timeframe as determined by SAHA, SAHA shall retain the right to end such negotiations.
- 2.7** SAHA reserves the right to reject and not consider any proposal that does not meet the requirements of this RFP, including but not necessarily limited to incomplete proposals and/or proposals offering alternate or non-requested services, and proposals which are conditional unless qualified for acceptance by SAHA on an "All or None" basis.
- 2.8** SAHA shall have no obligation to compensate any proposer for any costs incurred in responding to this RFP.

- 2.9** SAHA reserves the right to at any time during the RFP or contract process to prohibit any further participation by a proposer or reject any proposal submitted that does not conform to any of the requirements detailed herein. Each prospective proposer further agrees that he/she will inform SAHA's CA in writing within five (5) days of the discovery of any item that is issued thereafter by SAHA that he/she feels needs to be addressed. Failure to abide by this timeframe shall relieve SAHA, but not the prospective proposer, of any responsibility pertaining to such issue.
- 2.10** SAHA reserves the right, prior to award, to revise, change, alter or amend any of the instructions, terms, conditions, and/or specifications identified within the RFP documents issued, within any attachment or drawing, or within any addenda issued. All addenda will be posted on SAHA's website [www.saha.org](http://www.saha.org) and [nahro.economicengine.com](http://nahro.economicengine.com). Such changes that are issued before the proposal submission deadline shall be binding upon all prospective proposers.
- 2.11** In the case of rejection of all proposals, SAHA reserves the right to advertise for new proposals or to proceed to do the work otherwise, if in the judgment of SAHA, the best interest of SAHA will be promoted.
- 2.12** SAHA reserves the right to, without any liability; cancel the award of any proposal(s) at any time before the execution of the contract documents by all parties.
- 2.13** SAHA reserves the right to reduce or increase estimated or actual quantities in whatever amount necessary without prejudice or liability to SAHA, if:
- 2.13.1** Funding is not available,
  - 2.13.2** Legal restrictions are placed upon the expenditure of monies for this category of service or supplies; or,
  - 2.13.3** SAHA's requirements in good faith change after award of the contract.
- 2.14** SAHA reserves the right to make an award to more than one proposer based on ratings.
- 2.15** SAHA reserves the right to require additional information from all proposers to determine level of responsibility. Such information shall be submitted in the form required by SAHA within two (2) days of written request.
- 2.16** SAHA reserves the right to amend the contract any time prior to contract execution.
- 2.17** SAHA reserves the right to require the Contractor to keep accurate timesheets for all employees assigned to perform any project, task, or assignment resulting from this RFP and any resulting contract.

- 2.18** SAHA reserves the right to contact any individuals, entities, or organizations that have had a business relationship with the proposer regardless of their inclusion in the reference section of the proposal submittal.
- 2.19** In the event any resulting contract is prematurely terminated due to non-performance and/or withdrawal by the Contractor, SAHA reserves the right to seek monetary restitution (to include but not limited to withholding of monies owed) from the Contractor to cover costs for interim services and/or cover the difference of a higher cost (difference between terminated Contractor's rate and new company's rate) beginning the date of Contractor's termination through the contract expiration date.
- 2.20** SAHA reserves the right to modify the frequency of routine maintenance service based upon weather conditions and financial implications.
- 2.21** SAHA reserves the right based on the pricing contained in the Contractor's proposal for similar work to add or delete property locations for routine landscape and ground maintenance service as needed.
- 2.22** If at any time SAHA finds an employee, subcontractor or other individual or entity performing work under a contract resulting from this RFP to be unacceptable, Contractor shall within two (2) business day provide a replacement acceptable to SAHA.
- 2.23** The Housing Authority must maintain appropriate records (payrolls, work orders, job descriptions, training program materials and apprentice/trainee registrations, and any other data related to the employment and utilization of maintenance laborers and mechanics) which must be preserved for no less than three years, or until resolution of any dispute. Employers under contract to the Housing Authority to provide maintenance work must submit to the Housing Authority their original employment records as described above or agree to retain original employment records for three years or until resolution of any dispute subject to section 9.21 of this solicitation.

**3.0** **SCOPE OF PROPOSAL/TECHNICAL SPECIFICATIONS:** The primary objective of creating a Section 3 Pilot Program for landscaping services at Lincoln Heights and Wheatley Courts is to create a skilled workforce creating opportunities for residents for employment, training, long term-sustainability while removing barriers to employment.

- 3.1** SAHA is committed to the continued efforts to implementation of the Housing & Urban Development Act of 1968, Section 3. The objective of Section 3 of the Act is to ensure that economic opportunities resulting from HUD financial assistance are directed to low and very low-income persons, particularly those receiving government assistance for housing.

In past years, SAHA's Landscaping services were bid annually in the form of an RFP. SAHA promotes the Section 3 program in order to encourage resident owned businesses to apply. SAHA also requires its contractors and subcontractors "to the greatest extent feasible", to provide "ALL" types of employment opportunities to low and very low-income persons, including permanent employment and long-term jobs. Recipients and contractors are encouraged to have Section 3 residents make up at least 30 percent of their permanent, full-time staff. However, contractors and sub-contractors often fall short of SAHA's requirements and goals under the Section 3 Program. For this reason, SAHA proposes to Pilot a Section 3 Program for the Landscaping services provided at one east side development (Wheatley Courts) and one west-side development (Lincoln Heights).

**3.1.1** Lincoln Heights is located at 1315 N. Elmendorf, San Antonio, TX 78207.

**3.1.2** Wheatley Courts is located at 906 N. Mittman, San Antonio, TX 78202.

**3.2 Employment & Training Opportunities:** SAHA has determined that many service and construction contracts have potential opportunities to incorporate successful Section 3 programs.

**3.3 Recruitment:** SAHA Case Managers and Client Service Specialists at both Lincoln Heights and Wheatley Courts will assist the Contractor with the recruitment of residents. However, the awarded contractor will be responsible for ensuring that 50% of their labor force is residents from the site. Contractors may recruit utilizing flyers, community meetings or any means necessary to meet the 50% requirement.

**3.3.1 Office Space:** Contractor shall maintain office hours at Wheatley Courts and Lincoln Courts and must post the day and time available for residents to apply for jobs or ask questions regarding current contract or future opportunities.

**3.4 Pilot Components:** The Section 3 Landscaping Pilot Program will have three major components that will serve as guiding principles to make this program successful. These components are:

3.4.1 Employment

3.4.2 Training

3.4.3 Sustainability (long-term employment)

**3.5 Employment:** The Contractor awarded the landscaping services must hire at least 50% of its labor force from Wheatley Courts and Lincoln Heights. This means that half of its entire labor force on this contract must be residents from either Wheatley Courts or Lincoln Heights and are on the lease agreement. The resident(s) must be employed full time (i.e. 2x/month at 8hrs. a day = 16hrs./month). The hours shall be reported monthly to Community Initiatives.

**3.6 Training:** Training is one of the main components of this Pilot Program and the Contractor must incorporate a training program that will help residents remove barriers to long-term employment. The training component includes but is not limited to:

- Pre-Employment/Soft Skills
- Customer Service
- Landscaping Curriculum
- High School Diploma (GED)
- English as a Second Language (ESL)
- Safety Training
- Environmental/Green Initiatives
- Monthly Reports Requirement
- Entrepreneurship (How to start & run a small business)

Contractor shall either provide supportive services or collaborate with SAHA Case Managers/Client Service Specialist to remove barriers to employment such as:

- Case Management
- Child Care Assistance
- Transportation Component
- Provide Uniforms

**3.7 Sustainability (Long-Term Employment):** The final component of the Landscaping Section 3 Pilot Program is Sustainability. Contractors and sub-contractors are required to provide long-term employment opportunities, not simply seasonal or temporary employment. It is anticipated that by providing residents with employment, job training, supportive services with a holistic case management approach, residents' barriers to employment can be removed and long-term employment can be accomplished. It is required that 100% of the residents entering the Section 3 Pilot Program will be employed full-time after successful completion of the training and annual Landscaping contract. Contractor shall provide an annual report to the Director of Community Initiatives detailing the employment of Section 3 individuals.

**3.8** Contractor(s) shall comply with all applicable federal, state and local laws, rules, regulations, ordinances and codes and obtain any licenses or permits required to provide the services under this RFP.

**3.9** Contractor shall commence and end all services on the same workday unless approved in writing by SAHA.

**3.10** Each Contractor shall include a unit price cost for broadcast treatment of ant treatment at each development on an as-needed basis.

- 3.11** Contractor(s) shall practice acceptable safety precautions, follow industry safety standards, and use only industry approved safety equipment in the performance of all duties. Contractor shall maintain at all times all equipment in proper and safe operating conditions in accordance with the manufacturer's specifications. Contractor must be cognizant of safety at all times and take necessary safety precautions, so as to not cause harm to any persons or property while performing services under this RFP or any resulting contract. Contractor(s) shall exercise extreme caution around pedestrians and parked cars. Contractor(s) will cover cost of damages done by Contractor(s) as broken windows, patio doors, car damage, and damage to landscaping due to lack of knowledge on proper maintenance of landscaping, etc.
- 3.12** Contractor(s) shall apply all chemicals (fertilizers, herbicides, pesticides, fungicides, etc.) in accordance with all applicable laws, rules, codes, regulations and ordinances as well as manufacturer's instructions to include application by a licensed technician when required. Contractor shall only apply chemicals approved and registered by the Environmental Protection Agency and considered safe for use in residential areas.
- 3.13** Contractor within ten (10) working days after signing a contract must submit to SAHA's Procurement Department a list of chemicals to be used in the performance of contract with their EPA registrations and Material Safety Data Sheets (MSDS sheets).
- 3.14** Contractor shall pay all of its employees, including any and all approved subcontractors, at least the prevailing minimum wages as determined by the United States Department of Labor and the United States Department of Housing and Urban Development. Fair Labor Standards Act (29 U.S.C. 201, et seq) as listed in Attachment E.
- 3.15** Contractor(s) must provide, at Contractor's own expense, all equipment, chemicals, fertilizers, herbicides, mulch, fungicides, pesticides, labor, materials, supplies, tools, etc. necessary to perform all of the required services under this RFP and any resulting contract.
- 3.16** Contractor within ten (10) days after signing the Contract shall issue a schedule for routine service work for each development to SAHA CA and the appropriate property manager. Such schedule shall list the date and time that all work will commence and be completed in its entirety. This schedule once submitted can only be altered with the prior written approval of the property manager or designated SAHA representative.
- 3.17** Contractor(s) shall conduct all work during normal working hours from 8:00 a.m. to 5:00 p.m. unless deemed by SAHA to be disruptive to the normal operations of the organization or an emergency.

- 3.18** Contractor(s) shall during each service visit clean-up the entire property, including but not limited to all landscape service areas, parking lots, walkways, sidewalks, driveways, around dumpsters, thoroughfares and streets, and legally dispose of off-site all trash, leaves, litter, debris immediately after each service.
- 3.19** Contractor(s) shall blow away from all buildings and apartments, sidewalks and patios all debris to eliminate its collection under doors and on structures.
- 3.20** Contractor shall have work crews, qualified by training and experience, to perform the work required. Each crew member shall wear markings which identify him as a member of Contractor's workforce while on SAHA property.
- 3.21** Contractor shall perform criminal history checks and drug screening tests on all prospective employees performing work under this RFP and any resulting contract and provide summaries of the results to SAHA CA if requested. Prospective employees whose criminal history check disclose a misdemeanor or felony involving public indecency or harm to persons or property will not be employed to perform work under this RFP or any resulting contract. Criminal history and drug screening checks will be completed at the sole expense of the Contractor.
- 3.22** Contractor shall provide ID badges or uniforms for all employees working on SAHA's properties. No employee will be allowed on SAHA's properties without his/her ID badge or uniform on his/her person. Contractor must submit to SAHA's Procurement Department a sample of his/her ID badge/uniform prior to signing a contract if requested. Contractor(s) is to report personnel changes to property managers as they occur and prior to the person reporting to SAHA's property.
- 3.23** Contractor's personnel shall be neat and conduct all work in a professional manner.
- 3.24** Contractor(s) shall clean all site drainage devices, including but not limited to, area drains, grates, curb openings, drainage swells, sidewalk culverts, etc., during every service routine visit to ensure proper operation.
- 3.25** Contractor(s) shall replace, at Contractor's expense, any and all plants or grass that dies due to Contractor's negligence. Any plants or grass that die due to reasons beyond Contractor's control shall be replaced on a unit price basis pursuant to Contractor's proposal only after prior verification and authorization of the respective property manager or designated representative.
- 3.26** Contractor(s) shall operate any automatic landscape sprinkler system where installed, at least once per month, to ensure proper operation and water coverage. The system shall be thoroughly inspected and tested after each service. When repairs are needed, Contractor(s) shall submit a list of items in

need of repair to the property manager or designated representative. The Manager will then contact a licensed irrigator for these repairs. All repairs shall be made by a licensed irrigator where required by law and require prior approval by the respective property manager or designated representative. Contractor(s) shall adjust all controllers for the automatic landscape sprinkler system for the growing season, precipitation rates, manufacturer's guidelines and to maintain compliance with local ordinances, rules, regulations, and code provisions. Contractor shall replace at his/her expense any items damaged during any service on the property.

- 3.27** Contractor shall check in with property manager or his/her representative before commencing work. Contractor shall work with the respective property manager or his/her representative to determine type of perennials, shrubs, trees or grass to plant at each property location.
- 3.28** Contractor(s) shall perform the following routine landscaping and ground maintenance services during **each** service visit to the property. Portions of these properties may be separated by a road or be at different locations; therefore it is the Contractor's responsibility to do field verification of the actual job sites to be maintained. During the winter months or periods where conditions limit the need to perform specific routine maintenance duties including but not limited to mowing, Contractor will be required to do other work, including but not limited to raking, trash removal and/or other ground care services equivalent in value and service. **SAHA reserves the right to suspend service and payment due to weather conditions such as drought, extreme rainfall, or snow.**
- 3.29** Contractor shall provide for the SAHA Property Manager to sign a clear and legible copy of the work order showing all work performed, indicating the date and time of arrival and departure at the facility and that all work was done according to specifications. Work orders shall have a statement that shall be signed by the Contractors representative that work was performed according to specifications in this proposal. Contractor shall contact the Property Manager or Project Manager, or his/her designee, at the completion of any work and also deliver the said work order.

**3.29.1:**

| <b>• ROUTINE GRASS AND LAWN CARE</b>  |
|---|
| 1. Prior to and after each mowing and service visit, pick up and legally dispose of off-site all trash, litter and debris over the entire lawn and service area. Mow, edge, clean-up of individual tenant yard to include back, front and side yards if applicable.   |
| 2. Mow all grass in all common areas of the property completely to maintain a uniform height not to exceed two (2) inches. Any area within a constructed barricade that is behind or in front of an apartment, included but not limited to a fenced in rear-yard area, front-yard area, or patio will be mowed by the respective tenant; however, Contractor(s) may be required to mow these areas on an as needed basis according to the unit price cost included in the proposal. |
| 3. Remove all grass clippings off-site if bagged rather than mulched during the service visit. However, mulching is preferred to off-site disposal.   |
| 4. Completely and neatly trim and edge in a linear manner all grass to a uniform height not to exceed two (2) inches so to prevent growth over or on any sidewalks, fence lines, streets, parking areas, building foundations, dumpster pads, shrub beds, ground cover beds, planting beds, flower beds, and any other man-made or natural abutment.  |
| 5. Use weed trimmers in locations where mowers can not reach vegetation.  |
| 6. A qualified technician with the knowledge and resources to accurately diagnosis and treat any type of parasitic infection or disease shall inspect all grass and provide treatment as needed.  |
| 7. Apply an effective, safe and environmentally friendly herbicide, preferably organic, to immediately kill all grass and weeds growing up through cracks, openings, etc. in sidewalks, curbs, roads, parking areas, walls, etc.  |
| 8. Administer a program of fire ant treatment during every scheduled service by a licensed technician or a technician under the licensee's supervision as allowed by law and regulations. Such program shall consist of spot-treating every mound or colony with a contact insecticide, preferably organic.   |
| 9. Remove and legally dispose of all nuisance growth to include plants, trees, and/or foliage from buildings and roof lines a minimum of 3 feet from structure with each routine maintenance service visit.   |

**3.29.2**

| <b>• ROUTINE TREE CARE</b>  |
|---|
| 1. Provide all trees on the property with a trunk diameter of eight (8) inches or less with a mulch ring of shredded bark at least 48 inches in diameter not including the diameter of the tree trunk. The use of alternative materials for mulch requires the prior written approval of the SAHA CA, property manager, or their designees. |
| 2. Remove and legally dispose of all dead or dying branches and twigs up to eight (8) feet from ground level from any and all trees on the property.  |
| 3. Remove and legally dispose of all suckers growing at or near the base of any and all trees on the property.  |
| 4. Remove and legally dispose of all nuisance growth up to eight (8) feet from ground level on trees, including but not limited to the pruning of all branches that interfere, or will interfere with any utility lines or equipment, buildings, fences, walls, parking areas, streets, thoroughfares or walkways.                          |
| 5. Remove and legally dispose of all branches in pedestrian areas that are less than eight (8) feet in height from ground level.  |
| 6. Prune all trees so that a symmetrical appearance is maintained and in conformance with proper horticultural standards and techniques as designated for the San Antonio geographical zone.  |
| 7. Remove all weed growth on trees and around trees manually as to avoid harm to vegetation.  |
| 8. A qualified technician with the knowledge and resources to accurately diagnosis and treat any type of parasitic infection or disease shall inspect and treat of all trees.   |
| 9. Prior to and after each mowing and service visit, pick up and legally dispose of off-site all trash, litter and debris around all tree areas.  |
| <b>10. When pruning oak trees, all cuts shall be immediately covered with tree paint to avoid disease. All cutting equipment shall be disinfected prior to use and between each individual oak tree to avoid the spread of disease among the oak trees.</b>   |

**3.29.3**

| <b>• ROUTINE SHRUB CARE</b> |   |
|-----------------------------|---|
| 1.                          | Prior to and after each mowing and service visit, pick up and legally dispose of off-site all trash, litter and debris in and around shrub areas.   |
| 2.                          | Remove and legally dispose of all dead or dying branches and twigs on all shrubs.   |
| 3.                          | Remove and legally dispose of all suckers growing at or near the base of all shrubs.  |
| 4.                          | Remove and legally dispose of all nuisance growth up to 8 feet from ground level to include but not limited to branches that grow beyond the face of, or interfere, or will interfere with any utility lines or equipment, buildings, fences, walls, parking areas, streets or thoroughfares, curbs, or walkways.                                       |
| 5.                          | Remove and legally dispose of all branches in pedestrian areas that are less than eight (8) feet in height.   |
| 6.                          | Prune all shrubs so that a symmetrical appearance is maintained and in accordance with proper horticultural standards and techniques as designated for the San Antonio geographical zone. Do not prune shrubs in to any unnatural shape unless specifically instructed to do so by SAHA CA or respective property manager or designated representative. |
| 7.                          | Remove all weed growth on shrubs manually to avoid harm to vegetation.  |
| 8.                          | Prune all species which bloom on the last year's growth after the Spring blooming period. On all others, prune during the winter dormancy, or at optimal times for particular species.  |
| 9.                          | A qualified technician with the knowledge and resources to accurately diagnosis and treat any type of parasitic infection or disease shall inspect and treat all shrubs.  |

**3.29.4:**

| <b>• ROUTINE GROUND COVER CARE:</b> |  |
|-------------------------------------|--|
| 1.                                  | Prior to and after each mowing and service, pick up and legally dispose of off-site all trash, litter and debris, over the entire lawn and service area including but not limited to all ground cover beds, planting beds and all other man-made or natural abutment.                  |
| 2.                                  | Trim all ground cover and other areas in a linear, neat manner and in conformance with proper horticultural standards and techniques as designated for the San Antonio geographical zone.  |
| 3.                                  | Trim excessive cover growing out of its bed's boundary in a linear, neat manner.   |
| 4.                                  | Thin ground cover as necessary to promote healthy, symmetrical growth.   |
| 5.                                  | Keep all ground cover beds weed-free by manual applications.   |
| 6.                                  | Remove and legally dispose of all nuisance growth, to include but not limited to the pruning of ground cover that interferes, or will interfere with, or is growing up any utility lines or equipment, buildings, fences, walls, parking areas, streets or thoroughfares, or walkways. |
| 7.                                  | A qualified technician with the knowledge and resources to accurately diagnose and treat any type of parasitic infection or disease shall inspect and treat of all ground cover.   |

**3.30 Frequency of Fertilizer Application:**

- 3.30.1 Grass and Lawn Areas:** All grass areas shall be fertilized twice per year during the months of October and April respectively with a slow release, non-burning organic fertilizer that is designed for the respective species of grass at the property, preferably organic.
- 3.30.2 Tree Care:** All trees shall be fertilized twice per year during the months of October and April respectively with a slow release, non-burning fertilizer that is designed for the respective species of tree.
- 3.30.3 Shrub Care:** All shrub beds shall be fertilized twice per year during the months of October and April respectively with a slow release, non-burning fertilizer that is designed for the respective species of shrub.
- 3.30.4 Ground Cover Care:** All ground cover beds including flower beds, planting beds shall be fertilized twice per year during the months of October and April respectively with a slow release, non-burning fertilizer that is designed for the respective species of ground cover.

- 3.31 Frequency of Mulching Shrub Beds:** All shrub beds must be completely mulched to a depth of three (3) inches, twice per year during the months of October and April respectively using a shredded bark. The use of any other material for mulching is prohibited unless prior written approval of the SAHA CA, the property manager or respective representatives.
- 3.32 HUD Section 3 Program:** Contractor shall utilize Section 3 residents as defined in Attachment D to perform the requirements under this proposal to the greatest extent feasible and shall document such efforts quarterly. There is a 30% goal for hiring Section 3 residents on any contracts resulting from this RFP. Contractors will be evaluated on his performance at achieving this goal and such evaluation shall be a factor in future awards. **Contractor must submit with their proposal a detailed Section 3 utilization plan and the number of expected new hires Contractor expects as a result of an award. Failure to do so may result in disqualification of proposal.**
- 3.33** Contractor shall make monthly written recommendations to the Property Managers on ways to improve the landscaping and exterior of our buildings to include but not limited to plant recommendations and garden improvements. Contractor shall in proposal include a beautification plan under Tab. 9.

#### **4.0 CONDITIONS TO PROPOSE:**

- 4.1 Pre-Qualification of Proposers:** Prospective proposers will not be required to pre-qualify in order to submit a proposal. However, all proposers will be required to submit adequate information showing that the proposer is qualified to perform the required work (i.e. Profile of Firm Form (Attachment C)). Failure by the prospective proposer to provide the requested information may, at SAHA's discretion, eliminate that proposer from consideration, provided that all proposers were required to submit the same information.
- 4.2 RFP Forms, Documents, Specifications and Drawings:**
- 4.2.1** Prior to submitting a proposal in response to the RFP, it shall be each prospective proposer's responsibility to examine carefully and, as may be required, properly complete all documents issued pursuant to this RFP.
- 4.2.2** Unless otherwise instructed, specifications and drawings (if provided) do not purport to show all of the exact details of the work. They are intended to illustrate the character and extent of the performance desired under the proposed contract and may be supplemented or revised from time to time.
- 4.2.3** Catalogs, brand names or manufacturer's references where provided are descriptive only and indicate type and quality desired. Proposals

on brands of like nature and quality will be considered unless specified otherwise. If proposing other than references, proposal submittal shall show manufacturer, brand or trade name, and other description of product offered. If other than brand(s) specified is offered, illustrations and complete description of products offered must be included in the proposal submittal. Failure to take exception to specifications or referenced data will require Contractor to furnish specified brand names, numbers, etc.

### 4.3 Submissions and Receipt by SAHA:

**4.3.1 Time for Receiving Proposals:** Proposals received prior to the proposal submittal deadline shall be securely kept, unopened, by SAHA. The CA, whose duty it is to open such proposals, will decide when the specified time has arrive. No proposal received after the designated deadline shall be considered.

**4.3.1.1** Proposers are cautioned that any proposal submittal that is time-stamped as being received by SAHA after the exact time set as the deadline for the receiving of proposals shall not be considered. Any such proposals inadvertently opened, but shall be ruled to be invalid. No responsibility will attach to SAHA or any official or employee thereof, for the pre-opening of, or the failure to open a proposal not properly addressed and identified.

**4.3.1.2** A total of one (1) original signature copy (marked "ORIGINAL") and three (3) exact copies, with a cover and extending tabs, of the proposal submittal, shall be placed unfolded in a sealed package with the proposer's name and return address and addressed as follows:

RFP # {Insert Number}  
{Insert Exact Title of RFP}  
{Insert Month, day, year, Time of Bid Opening}  
The San Antonio Housing Authority  
Procurement Department  
818 S. Flores  
San Antonio, Texas 78204

**4.3.5 Withdrawal of Proposals:** Proposals may be withdrawn as detailed within Section 6(h) of Form HUD-5369b (08/1993), *Late Submissions, Modifications and Withdrawal of Bids*. Negligence on the part of the proposer in preparing his/her proposal confers no right of withdrawal or modification of his/her proposal after such proposal has been received and opened.

**4.3.5.1 Procedure to withdrawal proposal submittal:** A request for withdrawal of a proposal due to a purported error need not be considered by SAHA unless filed in writing by the proposer within 48 hours after the proposal deadline. Any such request shall contain a full explanation of any purported error and shall, if requested by SAHA, be supported by the original calculations on which the proposal was computed, together with a certification and notarization thereon that such computation is the original and was prepared by the proposer or his/her agent, who must be identified on the notarized form. The foregoing shall not be construed that such withdrawal will be permitted, as SAHA retains the right to accept or reject any proposed withdrawal for a mistake.

#### **4.5 Exceptions to Specifications:**

**4.5.1** A prospective proposer may take exception to any of the proposal documents or any part of the information contained therein, by submitting, in writing to the SAHA CA, at least seven (7) days prior to the proposal submission deadline, a complete and specific explanation as to what he/she is taking exception. Proposed alternate documents or information must also be included. SAHA reserves the right to agree with the prospective proposer and issue a revision to the applicable RFP requirements, or may reject the prospective proposer's request.

**4.5.2** When taking exception, prospective proposers must propose services that meet the requirements of the RFP documents. Exceptions to the specification and/or approved "equal" requests may be discussed at the scheduled pre-proposal conference (if scheduled). All verbal instructions issued by the SAHA officers not already listed within the RFP documents shall only become official when issued as addenda or as a written answer issued pursuant to receipt of a written question.

**5.0 FORM OF PROPOSAL:** The proposal shall be submitted in the following manner. Failure to submit the proposal in the manner specified may result in a premature opening of, post-opening of, or failure to open and consider that proposal, and may, at the discretion of the SAHA CA, eliminate that proposer from consideration for award.

**5.1 Required Forms:** All required forms furnished by SAHA as a part of the RFP document issued shall, as instructed, be fully completed and submitted by the proposer. Such forms may be completed in a legible hand-written fashion, by use of a typewriter, or may be downloaded and completed on a computer. If, during the download, a form becomes changed in any fashion, the proposer must "edit" the form back to its original form (for example, signature lines must appear on the page which the line was originally intended).

**5.2 Tabbed Proposal Submittal:** SAHA intends to retain the successful Proposer pursuant to a “Best Value” basis, not a “Low Bid” basis. Therefore, so that SAHA can properly evaluate the proposals received, all proposals submitted in response to this RFP must be formatted in accordance with the sequence noted below. Each category must be separated by numbered index dividers and the number on the index divider must extend so that each tab can be located without opening the proposal and labeled with the corresponding tab reference noted below. None of the proposed services may conflict with any requirement SAHA has published herein or has issued by addendum.

**5.2.1 Tab 1, Form of Proposal:** This Form is attached hereto as Attachment A to this RFP document. This one-page Form must be fully completed, and submitted under this tab as a part of the proposal submittal. The proposed fee section of this form will be intentionally left blank in the proposal submittals. The Proposal Fee Sheet & Cost Analysis (Attachment A) must be completed separately and placed in a sealed envelope. **DO NOT INCLUDE THE PROPOSED FEE SHEET, OR COST ANALYSIS IN THE PROPOSAL SUBMITTAL. THEY MUST BE SUBMITTED SEPARATELY IN A SEALED ENVELOPE AT THE TIME OF PROPOSAL SUBMITTAL AND ATTACHED ONLY TO THE “ORIGINAL” COPY.**

**5.2.2 Tab 2, Form HUD Forms and Conflict of Interest Questionnaire:** These Forms are attached hereto as Attachment B to this RFP document and must be fully completed, executed where provided thereon and submitted under this tab as a part of the proposal submittal.

**5.2.3 Tab 3, Profile of Firm Form:** The Profile of Firm Form is attached hereto as Attachment C to this RFP document. This two-page Form must be fully completed, executed and submitted under this tab as a part of the proposal submittal by the Proposer and each subcontractor. Resumes of Project Manager, Superintendent and other key staff showing experience.

**5.2.4 Tab 4, Experience, Management Capability, Operational Capability, & Financial Viability:** The Proposer must submit under this tab a concise description of its managerial and financial capacity and utilization plan to deliver the proposed services, to include:

**5.2.4.1** Firm’s experience in the operation of Pilot employment and training programs of this or greater scope. With emphasis on landscaping or similar services which include service on a routine and/or an as-needed basis. Experience with employee recruitment & developing training programs particularly for disadvantaged individuals.

- 5.2.4.2 Project Management plan for the oversight of all elements of the program services including assignment of work crews and the coordination of personnel, subcontractors, equipment, and suppliers to comply with the schedules, dispatching capabilities for scheduling, and a Work plan to provide specified services both on a routine basis and on an as-needed basis. Plan to create partnerships to assist Section 3 individuals future sustainability and support services
- 5.2.4.3 Project Manager and management staff's experience and expertise in operation of service and development programs; include resumes of management, project manager and other key staff.
- 5.2.4.4 Financial ability to provide such services to include copies of most recent financial statements and most recent audit if available.
- 5.2.4.5 Equipment owned, leased and/or rented to include trucks, lawn mowers, tractors, trailers, weed eaters, sprayers, and aerators. Designate which equipment is owned, leased, or rented.
- 5.2.4.6 Number of employees, number of crews and number of people assigned to each crew.
- 5.2.4.7 Liability claims, explanation of each and resolution.
- 5.2.5 **Tab 5, Client Information:** The proposer shall submit three former or current clients, preferably other than SAHA, for whom the proposer has performed similar or like services to those being proposed herein. The list shall, at a minimum, include the following current information for each reference:
  - 5.2.5.1 The client's name,
  - 5.2.5.2 The client's telephone number and address, & point of contact,
  - 5.2.5.3 Description of services provided to the client,
  - 5.2.5.4 Date of services; include completion time frame and number of days over/under schedule,
  - 5.2.5.5 Pictures of project sites showing size and complexity and
  - 5.2.5.6 Liability and/or Damage claims
  - 5.2.5.7 **These should be clients other than SAHA.**

**5.2.6 Tab 6, Joint Venture/Subcontractors:** The proposer shall identify hereunder if this proposal is a joint venture or partnership with another entity. Please remember that all information required from the proposer under the proceeding tabs must also be included for any joint venture or partner. One entity must be designated as the primary contact for the joint venture or partnership in the proposal. Proposers must also provide SAHA with the name, contact information to include address, phone number, email address, core area of business, and years of expertise for each subcontractor and supplier intended to be utilized by the Proposer to perform the services requested in this RFP. Proposer must realize that the actual usage of the subcontractor will be contingent upon SAHA's prior written approval, and Proposer remains responsible to SAHA for any and all services and goods provided pursuant to this RFP and any resulting contract. If no joint venture exists or subcontractors will not be utilized, please provide this statement, "NO JOINT VENTURE/ NO SUBCONTRACTORS", in this section. Regardless of subcontracting, Contractor remains liable to SAHA for performance under any resulting contract.

**5.2.7 Tab 7, Section 3 Business Documentation:** Proposers are required to submit a utilization plan outlining their efforts to employ/train qualified Section 3 businesses or persons and the number of potential new hires as a result of an award. **FAILURE TO PROVIDE A SECTION 3 PLAN MAY CAUSE THE RESPONSE TO BE DISQUALIFIED AS NON-RESPONSIVE.** In addition, any proposer claiming a Section 3 Business Preference, shall under this tab include the fully completed and executed Section 3 Business Preference Certification Form attached hereto as Attachment D and any documentation required by that form. Please include all supporting documentation with the proposal. Supporting documentation includes but is not limited to income tax returns for low-income employees for which proposer is seeking the preference, verification of total number of full-time employees, names, and addresses of low-income residents who are proposer's employees. **Note: If you qualify as a Section 3 Business Concern, your bid will receive a preference over other bids as specified in Attachment D.**

**5.2.8 Tab 8, Small/Minority/Disadvantaged/Veteran Business Enterprise Utilization Plan:** The proposer is required to include hereunder a good faith plan to assist SAHA in its responsibility to foster the development of small and historically under-utilized business enterprises. All subcontracting opportunities should be outlined here. **FAILURE TO PROVIDE A S/W/MBE PLAN MAY CAUSE THE RESPONSE TO BE DISQUALIFIED AS NON-RESPONSIVE.**

**5.2.9 Tab 9, Beautification Proposal:** Contractor shall provide under this tab written recommendations to enhance the “Curb Appeal” of the Properties. This should include ways to improve the landscaping and exterior of our buildings to include but not limited to plant recommendations and garden improvements.

**5.2.10 Tab 10, Other Information:** The proposer may also include hereunder any other general information that the proposer believes is appropriate to assist SAHA in its evaluation. If no pertinent information is to be placed under this tab, please place hereunder a statement that “NO INFORMATION IS BEING PLACED HEREUNDER.”

### **5.3 Proposed Costs:**

**5.3.1 Base Costs:** Each proposer must enter the proposed cost to SAHA for each listed landscaping service. Your proposed fee for each item is inclusive of all necessary costs to provide the proposed services, including, but not limited to: employee costs and benefits; clerical support; overhead; profit; supplies; materials; licensing; insurance; etc.

**5.3.1.1** All fees are all-inclusive of all related costs that a proposer will incur to provide the noted services in compliance with this RFP, including, but not limited to: employee wages and benefits, clerical support, overhead, profit, licensing, insurance, materials, supplies, tools, equipment, long distance telephone calls, document copying and motor vehicle fuel.

**5.3.1.2** Contractor must also take into account that its fees must include the operation and management of the pilot program and the associated support services required by this solicitation. SAHA will not make dual payments (one payment for services and one for pilot program operation).

**5.3.1.3 Additional Related Work that May Be Required:** Please note SAHA may retain the Contractor, if it is deemed by SAHA to be in its best interest, to perform additional services at the fees which shall be negotiated.

**5.4 Proposal Submittal Binding Method:** It is preferable and recommended that the proposer bind the proposal submittals in such a manner that SAHA can, if needed, remove the binding (i.e. “comb-type, etc.) or remove the pages from the cover (i.e. 3-ring binder, etc.) to make copies then return the proposal submittal to its original condition.

## **6.0 PROPOSAL EVALUATION:**

**6.1 Proposal Opening Results:** It is understood by all proposers/prospective proposers that the proposals are publicly opened and the results will be a matter of public record. When SAHA has concluded all evaluations, has chosen a final top-rated proposer, has completed the award and is ready to issue such results, SAHA shall notify the successful proposer.

**6.1.1** All proposal documents submitted by the proposers are generally a matter of public record unless information is deemed to be proprietary.

**6.2 Evaluation:** Each proposal submittal will be evaluated based upon the following information and criteria:

**6.2.1 Initial Evaluation-Responsiveness:** Each proposal received will first be evaluated for responsiveness (i.e., meeting the minimum requirements as stated in the RFP).

**6.2.2 Evaluation-Responsibility:** SAHA shall select a minimum of a three-person panel, using the criteria established below, to evaluate each of the proposals submitted in response to this RFP to determine the proposer's level of responsibility. SAHA will consider capabilities or advantages that are clearly described in the proposal that may be confirmed by oral presentations, site visits, demonstrations, and references contacted by SAHA. All proposals would be evaluated as to their overall value to SAHA.

**6.2.3 Restrictions:** All persons having familial (including in-laws) and/or employment relationships (past or current) with principals and/or employees of a proposer will be excluded from participation on SAHA's evaluation panel. Similarly, all persons having ownership interest in and/or contract with a proposer will be excluded from participation on SAHA's evaluation panel.

**6.2.4 Evaluation Criteria:** The evaluation panel will use the following rating criteria to evaluate each of the required elements specified in the proposal. Then each element will be scored based on the weight assigned to that element and then all element scores will be added to arrive at the sum total score:

- 5 - Excellent
- 4 - Above Average
- 3 - Average
- 2 - Below Average
- 1 - Poor
- 0 - Non-Responsive

| NO.                | Weight Factor | CRITERION DESCRIPTION  |
|--------------------|---------------|--|
| 1                  | 25%           | <b>Experience &amp; Past Performance:</b> Firm’s experience in the operation of Pilot employment and training programs of this or greater scope. With emphasis on landscaping or similar services which include service on a routine and/or an as-needed basis. Experience with employee recruitment & developing training programs particularly for disadvantaged individuals.  |
| 2                  | 30%           | <b>Project Management Ability:</b> Project Management plan for the oversight of all elements of the program services including assignment of work crews and the coordination of personnel, subcontractors, equipment, and suppliers to comply with the schedules, dispatching capabilities for scheduling, and a Work plan to provide specified services both on a routine basis and on an as-needed basis. Plan to create partnerships to assist Section 3 individuals future sustainability and support services               |
| 3                  | 10%           | <b>Financial &amp; Operational Capabilities:</b> Financial ability to provide such services to include copies of most recent financial statements and most recent audit if available. Equipment owned, leased and/or rented to include trucks, lawn mowers, tractors, trailers, weed eaters, sprayers, and aerators. Designate which equipment is owned, leased, or rented. Number of employees, number of crews and number of people assigned to each crew. Safety and/or liability claims, explanation of each and resolution. |
| 4                  | 10%           | <b>Price proposal:</b> The proposed costs the proposer proposes to charge SAHA.  |
| 5                  | 5%            | <b>Strength of the Beautification proposal.</b>  |
| 6                  | 20%           | <b>Strength of the Section 3 and S/W/MBE plans.</b>  |
| <b>MAX. POINTS</b> |               | <b>HUD SECTION 3</b>   |
| 1                  | 5             | <b>Section 3 Preference: A firm may qualify for Section 3 status for up to an additional 5 points.</b>   |
| a                  | 5             | <b>Priority I: As detailed in Attachment D</b>   |
| b                  | 4             | <b>Priority II: As detailed in Attachment D</b>  |
| c                  | 3             | <b>Priority III: As detailed in Attachment D</b>   |
| d                  | 2             | <b>Priority IV: As detailed in Attachment D</b>  |

**6.2.5 Competitive Range:** Once a competitive range is established from the proposals submitted, SAHA reserves the right to require Proposers within the competitive range to make a presentation to the evaluation committee. Presentations, if requested, shall be a factor in the award recommendation. SAHA reserves the right to award without presentations.

**6.2.6 Burden of Proof:** If requested by SAHA, it shall be the responsibility of the proposer(s) to furnish SAHA with sufficient data or physical samples, within a specified time, so that SAHA may determine if the goods or services offered conform to the specifications.

**6.3 Mistake in Proposal Submitted:**

**6.3.1** Unless otherwise prohibited within the RFP documents, a mistake in the cost unit pricing that does not affect the total cost sum submitted may, at SAHA's discretion, be corrected by submitting a corrected cost form, together with a complete explanation in writing, of how the mistake occurred, to the SAHA CA, for his/her review. This mistake must be corrected before the issuance of any contract documents. Such correction shall not operate to give any proposer an advantage over another.

**6.4 Irregular Proposal Submittal:** A proposal shall be considered irregular for any one of the following reasons, any one or more of which may, at SAHA's discretion, be reason for rejection:

**6.4.1** If the forms furnished by SAHA are not used or are altered or if the proposed costs are not submitted as required and where provided.

**6.4.2** If all requested completed attachments do not accompany the proposal submittal.

**6.4.3** If there are unauthorized additions, conditional or alternate proposals, or irregularities of any kind which may tend to make the proposal incomplete, indefinite or ambiguous as to its meaning or give the proposer submitting the same a competitive advantage over other proposers.

**6.4.4** If the proposer adds any provisions reserving the right to accept or reject any award or to enter into a contract pursuant to an award.

**6.4.5** If the individual cost proposal items submitted by a specific proposer are unbalanced in the sense that the listed price of any cost item departs by more than 25% from SAHA's cost estimate for that item.

**6.5 Disqualification of Proposers:** Any one or more of the following shall be considered as sufficient for the disqualification of a prospective proposer and the rejection of his/her proposal:

**6.5.1** Evidence of collusion among prospective proposers. Participants in such collusion will receive no recognition as bidders or proposers for any future work with SAHA until such participant shall have been reinstated as a qualified bidder or proposer. The names of all participants in such collusion shall be reported to HUD and any other inquiring governmental agency.

**6.5.2** More than one proposal for the same work from an individual, firm, or corporation under the same or different name(s).

- 6.5.3** Lack of competency, lack of experience and/or lack of adequate machinery, plant and/or other resources.
- 6.5.4** Unsatisfactory performance record as shown by past work for SAHA or with any other local, state or federal agency, judged from the standpoint of workmanship and progress.
- 6.5.5** Incomplete work, which in the judgment of SAHA, might hinder or prevent prompt completion of additional work, if awarded.
- 6.5.6** Failure to pay or satisfactorily settle all bills due on former contracts still outstanding at the time of letting.
- 6.5.7** Failure to comply with any qualification requirements of SAHA.
- 6.5.8** Failure to list, if required, all subcontractors (if subcontractors are allowed by SAHA) who will be employed by the successful proposer(s) to complete the work of the proposed contract.
- 6.5.9** As required by the RFP documents, failure of the successful proposer to be properly licensed by the City, County and/or the State of Texas and/or to be insured by a commercial general liability policy and/or worker's compensation policy and/or business automobile liability policy, if applicable. If a proposer receives an award unless otherwise waived in the Contract, the Contractor will be required to provide an original Certificate of Insurance confirming the following minimum requirements to SAHA within 10 days of contract signature:

**Remainder of this page left blank intentionally.**

| Professional Liability   | Required Limits                                   |
|--|---|
| SAHA and its affiliates must be named as an Additional Insured and be a Certificate Holder. This is required for vendors who render observational services to SAHA such as appraisers, inspectors, attorneys, engineers or consultants.  | \$300,000   |
| Business Automobile Liability  | Required Limits                                   |
| SAHA and its affiliates must be named as an additional insured and as the certificate holder. Must include both owned and unowned vehicles.  | \$500,000 combined single limit, per occurrence   |
| Workers Compensation and Employer's Liability  | Required Limits                                   |
| Workers' Compensation coverage is Statutory and has no pre-set limits. Employer's Liability limit is \$500,000<br><br>A waiver of Subrogation in favor of SAHA must be included in the Workers' Compensation policy.<br><br>SAHA and its affiliates must be named as a Certificate Holder. | Statutory<br>\$500,000                            |
| Commercial General Liability   | Required Limits                                   |
| This is required for any vendor who will be doing hands on work at SAHA properties.<br>SAHA and its affiliates must be named as an Additional Insured and as the Certificate Holder.   | \$1,000,000 per accident<br>\$2,000,000 aggregate |

**6.5.10** Any reason to be determined in good faith, to be in the best interests of SAHA.

**6.6 Award of Proposal(s):** The successful proposer (s) shall be determined by the top-rated responsive and responsible proposer as determined by the evaluation process and presentations detailed above and any further negotiations, provided his/her proposal is reasonable, he/she is able to deliver the specified items in a timely manner and it is, in the opinion of SAHA, to the best interests of SAHA to accept the proposal after preferences for Section 3 business concerns are considered.

**7.0 Right to Protest:**

**7.1 Rights:** Any prospective or actual proposer, offeror, or contractor who is allegedly aggrieved in connection with the solicitation of a proposal or award of a contract, shall have the right to protest. Such right only applies to deviations from laws, rules, regulations, or procedures. Disagreements with the evaluators' judgments as to the number of points scored are not reasons for an appeal. An alleged aggrieved protestant claiming this right is hereby informed that these regulations do not provide for administrative appeal as a matter of right for that alleged aggrieved protestant.

- 7.1.1** An alleged aggrieved “protestant” is a prospective proposer or proposer who feels that he/she has been treated inequitably by SAHA and wishes SAHA to correct the alleged inequitable condition or situation. To be eligible to file a protest with SAHA pertaining to an RFP or contract, the alleged aggrieved protestant must have been involved in the RFP process in some manner as a prospective proposer (i.e. recipient of the RFP documents) when the alleged situation occurred. SAHA has no obligation to consider a protest filed by any party that does not meet these criteria.
- 7.1.2** Any actual or prospective contractor may protest the solicitation or award of a contract for material violation of SAHA’s procurement policy. Any protest against a SAHA solicitation must be received before the due date for receipt of bids or proposals and any protest against the award of a contract must be received within ten calendar days after contract award or the protest will not be considered.

All protests must be in writing and submitted to the Director of Procurement for a written decision. The Director of Procurement shall make a recommendation to the Contracting Officer who shall issue a written decision and findings to the Contractor within 30 days from receipt of the written protest. This decision is then appealable to the Board of Commissioners within 30 days of receipt of the written decision. Appeals which are not timely filed will not be considered and the decision becomes final. All appeals shall be marked and sent to the address as listed in the example below:

APPEAL OF RFP NO. (insert exact number of RFP here)  
San Antonio Housing Authority  
Attn: Stacy Padgett, Director of Procurement  
818 South Flores Street  
San Antonio, TX 78204

**8.0 Disputes under the contract:**

- 8.1 Procedures:** In the event that any matter, claim, or dispute arises between the parties, whether or not related to this RFP or any resulting contract, both parties shall be subject to nonbinding mediation if agreed to by both parties within thirty days of either party making a request in writing. The parties further agree that if the matter, claim or dispute is not settled during mediation, it shall thereafter be submitted to binding arbitration. The parties shall make a good-faith attempt to mutually agree upon an arbitrator. If the parties cannot mutually agree upon an arbitrator after reasonable efforts have been exerted, then the matter, claim or dispute shall be submitted to the American Arbitration Association for final and binding arbitration. Unless extended by the arbitrator for good cause shown, the final arbitration hearing shall begin no later than two months after selection of the arbitrator.

## **9.0 Additional Considerations:**

- 9.1 Escalation:** This is a Firm Fixed Price Contract with no escalation provisions.
- 9.2 Required Permits and Licenses:** Unless otherwise stated in the RFP documents, all Federal, State or local permits and licenses which may be required to provide the services ensuing from any award of this RFP, whether or not they are known to either the SAHA or the proposers at the time of the proposal submittal deadline or the award, shall be the sole responsibility of the successful proposer and all offers submitted by the proposer shall reflect all costs required by the successful proposer to procure and provide such necessary permits or licenses.
- 9.3 Taxes:** All persons doing business with SAHA are hereby made aware that SAHA is exempt from paying Texas State Sales and Use Taxes and Federal Excise Taxes. A letter of Tax Exemption will be provided upon request.
- 9.4 Government Standards:** It is the responsibility of the prospective proposer to ensure that all items and services proposed conform to all local, state and federal law concerning safety (OSHA) and environmental control (EPA and Bexar County Pollution Regulations) and any other enacted ordinance, code, law or regulation. The successful proposer shall be responsible for all costs incurred for compliance with any such possible ordinance, code, law or regulation. No time extensions shall be granted or financial consideration given to the successful proposer for time or monies lost due to violations of any such ordinance, code, law or regulations that may occur.
- 9.5 Free on Board (FOB) and Delivery:** All costs submitted by the successful proposer shall reflect the cost of delivering the proposed items and/or services to the locations specified within the RFP documents or within the Contract. All costs in the proposal submittal shall be quoted as FOB Destination, Freight Prepaid and allowed unless otherwise stated in this RFP.
- 9.5.1** The successful proposer agrees to deliver to the designated location(s) on or before the date as specified in the finalized contract. Failure to deliver on or before the specified date constitutes an event of default by the successful proposer. Upon default, the successful proposer agrees that SAHA may, at its option, rescind the finalized contract under the termination clause herein and seek compensatory damages as provided by law.
- 9.6 Work on SAHA Property:** If the successful proposer's work under the contract involves operations by the successful proposer on SAHA premises, the successful proposer shall take all necessary precautions to prevent the occurrence of any injury to persons or property during the progress of such work and, shall indemnify SAHA, and their officers, agents, servants and

employees against all loss which may result in any way from any act or omission of the successful proposer, its agents, employees, or subcontractors.

**9.7 Estimated Quantities:** Unless otherwise indicated, the quantities reflected within the RFP documents, to the best of SAHA's knowledge, reflect projected consumption data. These quantities are not meant to infer or imply actual consumption figures or quantities that will be purchased by SAHA under the finalized contract; but, pursuant to all RFP documents, these quantities will be used only as calculation figures to determine the successful proposer. SAHA makes no guarantee as to the actual quantity that will be purchased under the Contract resulting from this RFP.

**9.8 Warranty:**

**9.8.1** The services provided under the contract shall conform to all information contained within the RFP documents as well as applicable Industry Published Technical Specifications, and if one of the above mentioned Specifications contains more stringent requirements than the other, the more stringent requirements shall apply.

**9.8.2** The liability of the successful proposer to SAHA shall include but not limited to the warranty for merchantability and the warranty of fitness for a particular purpose. However, this shall not preclude SAHA from seeking indirect, consequential, incidental, exemplary, and liquidated damages for any and all claims arising out of this RFP or any resulting contract.

**9.9 Official, Agent and Employees of the SAHA Not Personally Liable:** It is agreed by and between the parties hereto that in no event shall any official, officer, employee, or agent of the SAHA in any way be personally liable or responsible for any covenant or agreement herein contained whether expressed or implied, nor for any statement, representation or warranty made herein or in any connection with this agreement.

**9.10 Subcontractors:** Unless otherwise stated within the RFP documents, the successful proposer may not use any subcontractors to accomplish any portion of the services described within the RFP documents or the contract without the prior written permission of the SAHA CA. Also, any substitution of subcontractors must be approved in writing by SAHA prior to their engagement. Contractor remains liable to SAHA for performance.

**9.11 Salaries and Expenses Relating to the Successful Proposers Employees:** Unless otherwise stated within the RFP documents, the successful proposer shall pay all salaries and expenses of, and all Federal, Social Security taxes, Federal and State Unemployment taxes, and any similar taxes relating to its employees used in the performance of the contract. The successful proposer further agrees to comply with all Federal, State and local wage and hour laws

and all licensing laws applicable to its employees or other personnel furnished under this agreement.

**9.12 Reserved**

**9.13 Independent Contractor:** Unless otherwise stated within the RFP documents or the contract, the successful proposer is an independent contractor. Nothing herein shall create any association, agency, partnership or joint venture between the parties hereto and neither shall have any authority to bind the other in any way.

**9.14 Severability:** If any provision of this agreement or any portion or provision hereof applicable to any particular situation or circumstance is held invalid, the remainder of this agreement or the remainder of such provision (as the case may be), and the application thereof to other situations or circumstances shall not be affected thereby.

**9.15 Waiver of Breach:** A waiver of either party of any terms or conditions of this agreement in any instance shall not be deemed or construed as a waiver of such term or condition for the future, or of any subsequent breach thereof. All remedies, rights, undertakings, obligations, and agreements contained in this agreement shall be cumulative and none of them shall be in limitation of any other remedy, right, obligation or agreement of either party.

**9.16 Time of the Essence:** Time is of the essence as to each provision in which a timeframe for performance is provided in this RFP. Failure to meet these timeframes may be considered a material breach, and SAHA may pursue compensatory and/or liquidated damages under the contract.

**9.17 Limitation of Liability:** In no event shall SAHA be liable to the successful proposer for any indirect, incidental, consequential or exemplary damages.

**9.18 Indemnity:** The Contractor shall indemnify and hold harmless SAHA and its officers, agents, representatives, and employees from and against all claims, losses, damages, actions, causes of action and/or expenses resulting from, brought for, or on account of any personal injury or property damage received or sustained by any persons or property growing out of, occurring, or attributable to any work performed under or related to this Agreement, resulting in whole or in part from the negligent acts or omissions of the Contractor, any subcontractor, or any employee, agent or representative of the Contractor or any subcontractor, **AND REGARDLESS OF WHETHER CAUSED IN WHOLE OR IN PART BY THE NEGLIGENCE OF SAHA. CONTRACTOR ACKNOWLEDGES AND AGREES THAT THIS INDEMNITY CONTROLS OVER ALL OTHER PROVISIONS IN THE AGREEMENT, SURVIVES TERMINATION OF THIS AGREEMENT, AND APPLIES TO CLAIMS AND**

**LIABILITY ARISING OUT OF THE SOLE OR CONCURRENT NEGLIGENCE OF SAHA.**

**9.19 Public/Contracting Statutes.** SAHA is a governmental entity as that term is defined in the procurement statutes. SAHA and this RFP and all resulting contracts are subject to federal, state and local laws, rules, regulations and policies relating to procurement.

**9.20 Termination:** Any contract resulting from this RFP may be terminated under the following conditions:

**9.20.1 By mutual consent of both parties, and**

**9.20.2 For Termination For Cause:** As detailed within Form HUD-5370 (10/2006), attached hereto:

**9.20.2.1** SAHA may terminate any and all contracts for default at any time in whole or in part, if the contractor fails to perform any of the provisions of any contract, so fails to pursue the work as to endanger performance in accordance with the terms of the RFP or any resulting contracts, and after receipt of written notice from SAHA, fails to correct such failures within seven (7) days or such other period as SAHA may authorize or require.

**9.20.2.1.1** Upon receipt of a notice of termination issued from SAHA, the Contractor shall immediately cease all activities under any contract resulting from this RFP, unless expressly directed otherwise by SAHA in the notice of termination.

**9.20.2.1.2** SAHA may terminate any contract resulting from this RFP in whole or in part, if funding is reduced, or is not obtained and continued at levels sufficient to allow for the expenditure.

**9.20.3 Termination for Convenience:** In the sole discretion of the Contracting Officer, SAHA may terminate any and all contracts resulting from this RFP in whole or part upon fourteen days prior notice to the Contractor when it is determined to be in the best interest of SAHA.

**9.20.4** The rights and remedies of SAHA provided under this section are not exclusive and are in addition to any other rights and remedies provided by law or under any contract.

**9.20.5** In the event the resulting contract from this RFP is terminated for any reason, or upon its expiration, SAHA shall retain ownership of all

work products including deliverables, source and object code, microcode, software licenses, and documentation in whatever form that may exist. In addition to any other provision, the Contractor shall transfer title and deliver to SAHA any partially completed work products, deliverables, source and object code, or documentation that the Contractor has produced or acquired in the performance of any resulting contract.

**9.21 Examination and Retention of Contractor's Records:** SAHA, HUD, or Comptroller General of the United States, or any of their duly authorized representatives shall, until three years after final payment under all contracts executed as a result of this RFP, 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 audits, examinations, excerpts and transcriptions.

**9.22 Invoicing (If applicable):**

**9.22.1** Contractor(s) will only be allowed to invoice for the cost of services/goods in compliance with his/ her proposal or best and final offer as accepted by SAHA.

**9.22.2** Invoices must contain a complete description of the work or service that was performed and a copy of work order must be attached, the contract price for each service, the purchase order number, date of service, and address of service location or delivery address.

**9.22.3** Contractor(s) must submit a separate invoice for each purchase order issued by SAHA. Each service delivery must have a separate and unique purchase order number.

**9.22.4** Upon the Award of Contract, Contractor shall receive a request from SAHA to process all payments electronically to insure prompt and efficient payment of all invoices.

**9.22.5** If offered by Contractor, SAHA seeks a discount for early payment. SAHA shall only take such a discount if earned.

**9.22.6** Invoices not received within 90 days- SAHA reserves the right to not pay.

**9.23 Interlocal Participation**

**9.23.1** SAHA may from time to time enter into Interlocal Cooperation Purchasing Agreements with other governmental entities or governmental cooperatives (hereafter collectively referred to as "Entity" or "Entities") to enhance SAHA's purchasing power. At SAHA's sole discretion and option, SAHA may inform other Entities that they may

acquire items listed in this RFP. Such acquisition(s) shall be at the prices stated herein, and shall be subject to Contractor's acceptance.

**9.23.2** In no event shall SAHA be considered a dealer, remarketer, agent or other representative of Contractor or Entity. Further, SAHA shall not be considered and is not an agent; partner or representative of the Entity making purchases hereunder, and shall not be obligated or liable for any such order.

**9.23.3** Purchase orders shall be submitted to Contractor by the individual Entity.

**9.23.4** SAHA shall not be liable or responsible for any obligation, including but not limited to, payment and for any item or service ordered by an Entity, other than SAHA.

**9.24 Right to data and Patent Rights:** SAHA 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 any resulting contract, including but not limited to, reports, memoranda or letters concerning the research and reporting tasks of any resulting contract. Both parties agree to comply with HUD Bulletin 909-23, which is the Notice of Assistance Regarding Patent and Copyright Infringement.

**9.25 Lobbying Certification:** By proposing to do business with SAHA or by doing business with SAHA, each proposer certifies the following:

**9.25.1** No Federal appropriated funds have been paid or will be paid, by or on behalf of the proposer, to any person for influencing or attempting to influence an officer or employee of Congress, or an employee of 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 any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan or cooperative agreement.

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

- 9.25.3** The successful proposer shall require that the language of this certification be included in the award documents for all subawards at all tiers, (including but not limited to subcontractors, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.
- 9.25.4** This clause is a material misrepresentation of fact upon which reliance will be placed when the award is made or a contract is entered into. The signing of a contract or acceptance of award certifies compliance with this certification, which is a prerequisite for making or entering into a contract, which is imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certifications shall be subject to civil penalty of not less than \$10,000.00 and not more than \$100,000.00 for each such failure.
- 9.26 Executive Order 11246:** For all construction contracts awarded in excess of \$10,000, both parties hereby agree to comply with Executive Order 11246 of September 24, 1965, entitled “Equal Employment Opportunity,” as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor Regulations (41 CFR Chapter 60).
- 9.27 Copeland “Anti-Kickback” Act:** For all construction or repair contracts awarded, both parties hereby agree to comply with the Copeland “Anti-Kickback” Act (18 U.S.C. 874) as supplemented in Department of Labor Regulations (29 CFR Part 3).
- 9.28 Davis-Bacon Act:** For all construction contracts awarded in excess of \$2,000 when required by Federal Grant Program legislation, both parties hereby agree to comply with the Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented in Department of Labor Regulations (29 CFR Part 5).
- 9.29 Sections 103 and 107 of the Contract Work Hours and Safety Standards Act:** For all construction contracts awarded in excess of \$2,000 and for other contracts, which involve the employment of mechanics or laborers awarded in excess of \$2,500, both parties hereby agree to comply with the Sections 103 and 107 of the Contract Work Hours and Safety Act (40 U.S.C. 327-330) as supplemented in Department of Labor Regulations (29 CFR Part 5).
- 9.30 Clean Act Air:** For all contracts in excess of \$100,000, both parties hereby agree to comply with all applicable standards, orders or requirements issued under Section 306 of the Clean air Act (42 U.S.C. 1857 (h), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15) and any amendments.

- 9.31 Energy Policy and Conservation Act:** Both parties hereby agree to comply with all mandatory standards and policies relating to energy efficiency, which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 STAT. 871) and any amendments.
- 9.32 Executive Order 11061:** Both parties agree that they will comply with this order, which directs the Secretary of HUD to take all action, which is necessary and appropriate to prevent discrimination by agencies that utilize federal funds.
- 9.33 Public Law 88-352, Title VI of the Civil Rights Act of 1964, and its amendments:** Both parties agree that no person in the United States shall, on the basis of race, color, national origin or sex, be excluded from participation in, denied the benefits of, or subjected to discrimination under any program or activity which receives federal financial assistance. SAHA hereby extends this requirement to the Contractor and its subcontractors. Specific prohibited discriminatory actions and corrective action are described in Chapter 2, Subtitle C, Title V of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 19901 et. Seq.).
- 9.34 Public Law 90-284, Title VIII of the Civil Rights Act of 1968 and its Amendments (Fair Housing Act):** Both parties agree to comply and prohibit any person from discriminating in the sale or rental of housing, the financing of housing or the provision of brokerage services, including in any way making unavailable or denying a dwelling to any person because of race, color, religion, sex or national origin. As a result, SAHA requires that the Contractor administer all programs and activities, which are related to housing and community development in such a manner as affirmatively to further fair housing.
- 9.35 Age Discrimination Act of 1975 and its amendments:** Requires the Contractor to prohibit discrimination on the basis of age.
- 9.36 Anti-Drug Abuse Act of 1988 (42 U.S.C. 11901 et. seq.) and its amendments:** SAHA requires Contractors to comply with this law.
- 9.37 HUD Information Bulletin 909-23:** Contractors shall comply with the following laws and regulations:
- 9.37.1** Notice of Assistance Regarding Patent and Copyright Infringement
  - 9.37.2** Clean Air and Water Certification
  - 9.37.3** Energy Policy and Conservation Act
- 9.38 Copy Rights/Rights in Data** SAHA has unlimited rights to any data, including computer software, developed by the Contractor in the performance of the Contract specifically:

- 9.38.1** Except as provided elsewhere in this clause, SAHA shall have unlimited rights in data first produced in the performance of this Contract; form, fit, and function data delivered under this Contract; data delivered under this Contract (except for restricted computer software) that constitute manuals or instructional and training material for installation, operation, or routine maintenance and repair of items, components, or processes delivered or furnished for use under this Contract; and all other data delivered under this Contract unless provided otherwise for limited rights data or restricted computer software.
- 9.38.2** Contractor shall have the right to: use, release to others, reproduce, distribute, or publish any data first produced or specifically used by the Contractor in the performance of this Contract, unless provided otherwise in this contract; protect from unauthorized disclosure and use those data which are limited rights data or restricted computer software to the extent provided in this contract; substantiate use of, add or correct limited rights, restricted rights, or copyright notices and to take other appropriate action in accordance with this contract; and establish claim to copyright subsisting in data first produced in the performance of this Contract to the extent provided below.
- 9.38.3** For data first produced in the performance of this Contract, the contractor may establish, without prior approval of the PM, claim to copyright subsisting in scientific or technical articles based on or containing data first produced in the performance of this Contract. The Contractor grants SAHA and others acting on its behalf a paid-up, non-exclusive, irrevocable, worldwide license in such copyrighted data to reproduce, prepare derivative works, distribute copies to the public, and perform or display publicly by or on behalf of SAHA.
- 9.38.4** The Contractor shall not, without the prior written permission of the CA, incorporate in data delivered under this Contract any data not first produced in the performance of this Contract and which contains copyright notice, unless the Contractor identifies such data and grants SAHA a license of the same scope as identified in the preceding paragraph.
- 9.38.5** SAHA agrees not to remove any copyright notices placed on data and to include such notices in all reproductions of the data. If any data delivered under this Contract are improperly marked, SAHA may either at its discretion return the data to the Contractor or cancel or ignore the markings.
- 9.38.6** The Contractor is responsible for obtaining from its subcontractors all data and rights necessary to fulfill the Contractor's obligations under this Contract.

**9.38.7** Notwithstanding any provisions to the contrary contained in the Contractor's standard commercial license or lease contract pertaining to any restricted computer software delivered under this Contract, and irrespective of whether any such contract has been proposed prior to the award of this Contract or of the fact that such contract may be affixed to or accompany the restricted computer software upon delivery, the Contractor agrees that SAHA shall have the rights set forth below to use, duplicate, or disclose any restricted computer software delivered under this Contract. The terms and conditions of any resulting contract, including any commercial lease or licensing contract shall be subject to the following procedures.

**9.38.7.1** The restricted computer software delivered under a resulting contract may not be used, reproduced, or disclosed by SAHA except as provided below or as expressly stated otherwise in a resulting contract. The restricted computer software may be used accordingly:

**9.38.7.1.1.** Used or copied for use in or with the computers for which it was acquired, including use at any SAHA location to which such computer may be transferred;

**9.38.7.1.2** Used or copied for use in or with backup computer if any computer for which it was acquired is inoperative;

**9.38.7.1.3** Reproduced for safekeeping (archives) or backup purposes;

**9.38.7.1.4** Modified, adapted, or combined with other computer software, provided that the modified, combined, or adapted portions of the derivative software incorporating any of the delivered, restricted computer software shall be subject to the same restrictions set forth in a resulting contract; and

**9.38.7.1.5** Used or copied for use in or transferred to a replacement computer.

**9.39 Additional Information:** Each provision of law and each clause, which is required by law to be inserted in this RFP or any contract, shall be deemed to have been inserted herein, and this RFP and any resulting contract shall be read and enforced as though such provision or clause had been physically inserted herein. If, through mistake or otherwise, any such provision is not inserted or is inserted incorrectly, this agreement shall forthwith be physically

amended to make such insertion or correction upon the application of either party. The fore-mentioned statutes, regulations and executive orders are not intended as an indication that such statute, regulation or executive order is necessary applicable nor is an omission of such statute, regulation or executive order intended to indicate that it is not applicable.

**9.40 Conflicting Conditions:** In the event there is a conflict between the documents comprising this RFP and any resulting contracts, the following order of precedence shall govern: (1) the more restrictive terms of either: any and all attached HUD forms and the term/conditions in the body of any resulting contract; (2) the RFP; and (3) Contractor's Response. In the event that a conflict exists between any state statute, or federal law the most restrictive terms shall apply.

**9.41 Interpretations:** No official oral interpretation can be made to any proposer as to the meaning of any instruction, condition, specifications, drawing (if any), or any other document issued pertaining to this RFP. Every request for an official interpretation shall be made by the prospective proposer, in writing at least seven (7) days prior to the submission deadline. Official interpretations will be issued in the form of addenda, which will be posted on [www.saha.org](http://www.saha.org) and [nahro.economicengine.com](http://nahro.economicengine.com) ; but it shall be the prospective proposer's responsibility to make inquiry as to addenda issued. All such addenda shall become a part of the RFP documents and the proposed contract with the successful proposer and all proposers shall be bound by such addenda, whether or not received by the prospective or successful proposer(s).

**9.42 Contract Form:** SAHA will not execute a contract on the successful proposer's form. Contracts will only be executed on SAHA's form. By submitting a proposal, the successful proposer agrees to this condition. However, SAHA will consider any contract clauses that the proposer wishes to include therein, but the failure of SAHA to include such clauses does not give the successful proposer the right to refuse to execute SAHA's contract form. It is the responsibility of each prospective proposer to notify SAHA, in writing, with the proposal submittal of any contract clauses that he/she is not willing to include in the final executed contract. SAHA will consider such clauses and determine whether or not to amend the Contract.

**9.43 Liquidated Damages:** For each day that performance under a resulting contract from this RFP is delayed beyond the time specified for completion, the successful proposer shall be liable for liquidated damages in the amount of \$50.00 per consecutive (calendar) day. However, the timeframe for performance may be adjusted at SAHA's discretion in writing and received by the successful proposer prior to default under any resulting contract.

**9.43.1 Force Majeure:** Neither SAHA nor Contractor shall be held responsible for delays or default caused by fire, flood, riot, acts of God or war where such cause was beyond, respectively, SAHA or Contractor's reasonable control. Contractor shall make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this Agreement.

**9.44 Immigration Reform:** By submitting a proposal Contractor certifies compliance with the Immigration Reform and Control Act of 1986 regarding employment verification and retention of verification forms for any individuals hired on or after November 6, 1986 who will perform any labor or services under any resulting contract.

**9.45 Most Favored Customer:** The Contractor agrees that if during the term of any resulting contract, the Contractor enters into any agreement with any other governmental customer, or any non-affiliated commercial customer by which it agrees to provide equivalent services at lower prices, or additional services at comparable prices, the resulting Contract will at SAHA's option, be amended to accord equivalent advantage to SAHA.

**9.46 Lapse in Insurance Coverage:** In the event Contractor fails to maintain insurance as required by a resulting contract, the Contractor shall immediately cure such lapse in insurance coverage at the Contractor's expense, and pay SAHA in full for all costs and expenses incurred by SAHA under this Contract as a result of Contractor's failure to maintain insurance as required, including costs and reasonable attorney's fees relating to SAHA's attempts to cure such lapse in insurance coverage. Such costs and attorney fees, not to exceed fifteen hundred and 00/100 dollars (\$1,500.00), shall be automatically deducted from monies or payments owed to Contractors. Moreover, SAHA shall retain from monies or payments owed to Contractor by SAHA five percent (5%) of the value of the Contract and place this retainage into an account to cover SAHA's potential exposure to liability during the period of such lapse. This retainage shall be held by SAHA until six (6) months after the term of the resulting contract has ended or has otherwise been terminated, cancelled or expired and shall be released if no claims are received or lawsuits filed against SAHA for any matter that should have been covered by the required insurance.

**9.47 Fair Labor Standards Act:** Both parties hereby agree to comply with the provisions of the Fair Labor Standards Act (29 U.S.C. 201, et seq).

**ATTACHMENT A**  
**Form of Proposal**  
**Proposal Fee Sheet**  
**Cost Analysis**

**FORM OF PROPOSAL**

**(Attachment A)**

(This Form must be fully completed and placed under Tab No. 1 of the "hard copy" tabbed proposal submittal.)

**Instructions:** Unless otherwise specifically required, the items listed below must be completed and included in the proposal submittal. Please complete this form by marking an "X," where provided, to verify that the referenced completed form or information has been included within the "hard copy" proposal submittal submitted by the proposer. Also, complete the Section 3 Statement and the Proposer's Statement as noted below:

| X=ITEM INCLUDED | SUBMITTAL ITEMS  |
|-----------------|--|
| _____           | Tab 1 Form of Proposal (Attachment A)                              |
| _____           | Tab 2 HUD Forms & Conflict of Interest Questionnaire(Attachment B) |
| _____           | Tab 3 Profile of Firm Form (Attachment C)                          |
| _____           | Tab 4 Performance, Experience, Managerial & Financial Capability   |
| _____           | Tab 5 Client Information   |
| _____           | Tab 6 Subcontractor/Joint Venture Information                      |
| _____           | Tab 7 Section 3 Business Preference Documentation                  |
| _____           | Tab 8 Section 3 SWMBE Good Faith Plan                              |
| _____           | Tab 9 Beautification Plan  |
| _____           | Tab 10 Other Information,  |

**SECTION 3 STATEMENT**

Are you claiming a Section 3 business preference? YES\_\_\_ or NO\_\_\_. If "YES," pursuant to the documentation justifying such submitted under Tab No. 8, which priority are you claiming?

- \_\_\_\_\_ Priority I
- \_\_\_\_\_ Priority II
- \_\_\_\_\_ Priority III
- \_\_\_\_\_ Priority IV

FEE FORMS FOR \_\_\_\_\_ (Print Company Name)

**PROPOSER’S STATEMENT**

The undersigned proposer hereby states that by completing and submitting this Form and all other documents within this proposal submittal, he/she is verifying that all information provided herein is, to the best of his/her knowledge, true and accurate, and that if SAHA discovers that any information entered herein to be false, that shall entitle SAHA to not consider or make award or to cancel any award with the undersigned party. Further, by completing and submitting the proposal submittal, and by entering and submitting the costs where provided, the undersigned proposer is thereby agreeing to abide by all terms and conditions pertaining to this RFP as issued by SAHA, in hard copy. Pursuant to all RFP Documents, all attachments, and all completed Documents submitted by proposer, including these forms and all attachments, the undersigned proposes to supply SAHA with the services described herein for the fee(s) entered within the areas provided.

**FEE SHEET FOR ROUTINE LANDSCAPING AND GROUND MAINTENANCE SERVICES  
DETAILED IN SECTION 3.22 OF THIS RFP**

| PROPERTY DEVELOPMENT   | # of Acres    | # of Units | FREQUENCY<br>Two Cuts per Month or “As Needed” | SERVICE FEE PER CUT OR PER APPLICATION | ANNUAL FEE (Service Fee Multiplied By 24) |
|--|---------------|------------|--|--|---|
| <b>Lincoln Heights</b>   | <b>12.003</b> | <b>338</b> | <b>Two Cuts per mo.</b>                        |  |   |
| Routine Maintenance Service Fee per Cut  |               |            |  | \$                                     | \$  |
| Broadcast fire ant treatment over entire development   |               |            |  | \$                                     | \$  |
| Broadcast organic fire ant treatment over entire development   |               |            |  | \$                                     | \$  |
| Additional Mow, edge, clean-up of individual tenant yard to include back, front and side yards if applicable |               |            |  | \$                                     | \$  |
| Additional mow, edge, clean-up of entire property  |               |            |  | \$                                     | \$  |
| Fertilize grass, shrubs, trees, ground cover beds as specified (twice yearly)                                |               |            |  | \$                                     | \$  |
| Use of organic fertilizer  |               |            |  | \$                                     | \$  |
| Use of organic pesticide   |               |            |  | \$                                     | \$  |
| Use of organic herbicide   |               |            |  | \$                                     | \$  |
| <b>Wheatley Courts</b>   | <b>13.02</b>  | <b>248</b> | <b>Two cuts per mo.</b>                        |  |   |
| Routine Maintenance Service Fee per Cut  |               |            |  | \$                                     | \$  |
| Broadcast fire ant treatment over entire development   |               |            |  | \$                                     | \$  |
| Broadcast organic fire ant treatment over entire development   |               |            |  | \$                                     | \$  |
| Additional Mow, edge, clean-up of individual tenant yard to include back, front and side yards if applicable |               |            |  | \$                                     | \$  |
| Additional mow, edge, clean-up of entire property  |               |            |  | \$                                     | \$  |
| Fertilize grass, shrubs, trees, ground cover beds  |               |            |  | \$                                     | \$  |
| Use of organic fertilizer  |               |            |  | \$                                     | \$  |
| Use of organic pesticide   |               |            |  | \$                                     | \$  |
| Use of organic herbicide   |               |            |  | \$                                     | \$  |

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

## ADDITIONAL UNIT PRICING

These unit prices will include all costs associated with the requested service, to include but not limited to labor and all materials, including the plants, chemicals, shrubs, trees, etc., required to ensure optimal survival of plants, shrubs, trees, grass, etc. These unit prices are on an as- needed basis per service.

| SERVICE   | Unit of measure | Total Price |
|---|-----------------|-------------|
| 1. Installation of additional groundcover beds to include border and top soil, potting soil and mulch, fertilizer and plants. Minimum 3 or 4 inch plant with not more than 18 inch centers. | Sq. ft.         | \$          |
| 2. Installation of additional flower beds to include border and top soil, potting soil and mulch, fertilizer and plants. Minimum 3 or 4 inch plant on 12 inch centers.                      | Sq. ft.         | \$          |
| 3. Planting of 1 gallon xeriscape perennials  | Each            | \$          |
| 4. Planting of 1 gallon xeriscape shrubs  | Each            | \$          |
| 5. Planting of 3 gallon xeriscape shrubs  | Each            | \$          |
| 6. Planting of 5 gallon xeriscape shrubs  | Each            | \$          |
| 7. Planting of 10 gallon xeriscape shrubs   | Each            | \$          |
| 8. Planting of 3 gallon trees   | Each            | \$          |
| 9. Planting of 5 gallon trees   | Each            | \$          |
| 10. Planting of up to 10 gallon trees   | Each            | \$          |
| 11. Planting of up to 25 gallon trees   | Each            | \$          |
| 12. Planting of sod-St. Augustine   | Sq. ft.         | \$          |
| 13. Planting of sod-Bermuda, Riviera or Black Jack. Must be drought tolerant, vendor must identify variety prior to installation.   | Sq. ft.         | \$          |
| 14. Plugging of St. Augustine 12 inch centers.  | Sq. ft.         | \$          |
| 15. Seeding-Bermuda, Riviera or Black Jack. Must be drought tolerant, vendor must identify variety prior to installation.   | Sq. ft.         | \$          |
| 16. Option- Turn brush, branches, and tree limbs into Mulch.  | Cu. Yd..        | \$          |
| 17. Installation of Bermuda Hydromulch  | Sq. ft.         | \$          |
| 18. Seeding of Winter Rye   | Sq. ft.         | \$          |
| 19. Trimming of brush, branches, and tree limbs <b>up to</b> 8 feet from ground level   | Cu. Yd.         | \$          |
| 20. Haul-off and legally dispose of brush, branches, and tree limbs   | Cu. Yd.         | \$          |
| 21. Cut down of tree per diameter inch.   | Each            | \$          |
| 22. Haul-off and legally dispose of trash, debris, etc  | Cu.Yd.          | \$          |
| 23. Soil/earth cut  | Cu. Yd.         | \$          |
| 24. Soil/earth fill   | Cu. Yd.         | \$          |
| 25. Mow, edge, clean-up of standard single-family residential lot varying in size from 1/5 to 1/3 acre-(property not under routine maintenance service)-Scattered Sites                     | Each            | \$          |
| 26. Mow, edge, clean-up Victoria Commons Phase 2-approximately 12 acres with infrastructure completed. Address: 300 Labor Street.   | 12 acres        | \$          |
| 27. Mow, edge, clean-up Victoria Commons Phase 3-approximately 2.49 acres (open field with some fencing) Address: Corner of Durango and Labor Street  | 2.49 acres      | \$          |
| 28. Mow, edge, clean-up property not on routine maintenance service   | Per acre        | \$          |
| 29. Application of fungicide  | Sq. Yd.         | \$          |
| 30. Application of organic fungicide  | Sq. Yd.         | \$          |
| 31. Mulching shrub beds   | Sq. ft.         | \$          |
| 32. Trimming of brush, branches and tree limbs <b>above</b> 8 feet from ground level  | Cu. Yd.         | \$          |
| 33. Mow, edge, clean-up Sutton Homes Tract #2 approximately 1.946 acres   | 1.946           | \$          |
| 34. Mow, edge, clean-up Sutton Homes Tract #3 approximately 10.950 acres  | 10.950          | \$          |
| 35. Organically fertilize grass and lawn areas  | Sq. ft.         | \$          |
| 36. Organically fertilize tree care   | Each            | \$          |
| 37. Organically fertilize shrub care  | Sq. ft.         | \$          |
| 38. Organically fertilize ground cover care   | Sq. ft.         | \$          |

**Addenda Acknowledgements**

Addendum #1 \_\_\_\_\_ Date \_\_\_\_\_

Addendum #2 \_\_\_\_\_ Date \_\_\_\_\_

Addendum #3 \_\_\_\_\_ Date \_\_\_\_\_

Addendum #4 \_\_\_\_\_ Date \_\_\_\_\_

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

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

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

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

\_\_\_\_\_  
**E-mail address if available**

\_\_\_\_\_  
**Phone**

\_\_\_\_\_  
**Fax**

## Cost Analysis

**HUD regulations require a cost analysis prior to an award of contract. Please supply the information requested below as to how the fees on the proposal fee sheet were calculated.**

### **DIRECT COSTS:**

**Direct Labor (Personnel) \$ \_\_\_\_\_**

**Equipment \$ \_\_\_\_\_**

**Supplies \$ \_\_\_\_\_**

**Travel and Per Diem \$ \_\_\_\_\_**

**Subcontractors or Consultants \$ \_\_\_\_\_**

**Other: \$ \_\_\_\_\_  
(Computer time, copying, long distance phone calls, etc)**

### **INDIRECT COSTS:**

**Overhead \$ \_\_\_\_\_**

**General & Administrative Expenses \$ \_\_\_\_\_**

**PROFIT OR FEE \$ \_\_\_\_\_**

**ATTACHMENT B**  
**HUD FORMS & Conflict Of Interest Questionnaire**

**HUD Form 5369-B**  
**Instructions to Offerors**

**HUD Form 5369-C**  
**Certifications & Representations**

**HUD Form 5370**  
**General Conditions Section I & II**

**Conflict of Interest Questionnaire**

# Instructions to Offerors Non-Construction

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



- 03291 -

## 1. Preparation of Offers

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

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

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

## 2. Submission of Offers

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

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

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

## 3. Amendments to Solicitations

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

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

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

## 4. Explanation to Prospective Offerors

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

## 5. Responsibility of Prospective Contractor

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) The HA may

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

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

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

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

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

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

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

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

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

[Describe bid or proposal preparation instructions here:]

# Certifications and Representations of Offerors

## Non-Construction Contract

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

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

### 1. Contingent Fee Representation and Agreement

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

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

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

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

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

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

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

For the purpose of this definition, minority group members are:

(Check the block applicable to you)

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

### 3. Certificate of Independent Price Determination

(a) The bidder/offeror certifies that—

- (1) The prices in this bid/offer have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other bidder/offeror or competitor relating to (i) those prices, (ii) the intention to submit a bid/offer, or (iii) the methods or factors used to calculate the prices offered;
- (2) The prices in this bid/offer have not been and will not be knowingly disclosed by the bidder/offeror, directly or indirectly, to any other bidder/offeror or competitor before bid opening (in the case of a sealed bid solicitation) or contract award (in the case of a negotiated solicitation) unless otherwise required by law; and
- (3) No attempt has been made or will be made by the bidder/offeror to induce any other concern to submit or not to submit a bid/offer for the purpose of restricting competition.

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

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

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

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

#### 4. Organizational Conflicts of Interest Certification

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

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

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

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

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

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

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

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

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

#### 6. Conflict of Interest

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

#### 7. Offeror's Signature

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

---

Signature & Date:

---

Typed or Printed Name:

---

Title:

---

# General Conditions for Non-Construction Contracts

## Section 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. 11/30/2008)

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 \$100,000 - use Section I;**
- 2) **Maintenance contracts** (including nonroutine maintenance as defined at 24 CFR 968.105) **greater than \$2,000 but not more than \$100,000 - use Section II;** and
- 3) **Maintenance contracts** (including nonroutine maintenance), **greater than \$100,000 – use Sections I and II.**

### Section I - Clauses for All Non-Construction Contracts greater than \$100,000

#### 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

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

#### 3. Termination for Convenience and Default

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

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

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

- (b) The Contractor agrees to include in first-tier subcontracts under this contract a clause substantially the same as paragraph (a) above. "Subcontract," as used in this clause, excludes purchase orders not exceeding \$10,000.
- (c) The periods of access and examination in paragraphs (a) and (b) above for records relating to:
  - (i) appeals under the clause titled Disputes;
  - (ii) litigation or settlement of claims arising from the performance of this contract; or,
  - (iii) costs and expenses of this contract to which the HA, HUD, or Comptroller General or any of their duly authorized representatives has taken exception shall continue until disposition of such appeals, litigation, claims, or exceptions.

**5. Rights in Data (Ownership and Proprietary Interest)**

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

**6. Energy Efficiency**

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

**7. Disputes**

- (a) All disputes arising under or relating to this contract, except for disputes arising under clauses contained in Section 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 public official of such locality or localities who exercises any functions or responsibilities with respect to the project, shall, during his or her tenure, or for one year thereafter, have any interest, direct or indirect, in this contract or the proceeds thereof.

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

(a) Definitions. As used in this clause:

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Prohibition.

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

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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. 11/30/2008)

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 968.105) 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.

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

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

## 5. Disputes concerning labor standards

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

forth those findings that are in dispute and the reasons, including any affirmative defenses, with respect to the violations. The request shall be directed to the appropriate HA or HUD official in accordance with instructions contained in the notice of findings or, if the notice does not specify to whom a request should be made, to the Regional Labor Relations Officer (HUD).

- (ii) The HA or HUD official shall, within 60 days (unless otherwise indicated in the notice of findings) after receipt of a timely request for reconsideration, issue a written decision on the findings of violation. The written decision on reconsideration shall contain instructions that any appeal of the decision shall be addressed to the Regional Labor Relations Officer by letter postmarked within 30 calendar days after the date of the decision. In the event that the Regional Labor Relations Officer was the deciding official on reconsideration, the appeal shall be directed to the Director, Office of Labor Relations (HUD). Any appeal must set forth the aspects of the decision that are in dispute and the reasons, including any affirmative defenses, with respect to the violations.
  - (iii) The Regional Labor Relations Officer shall, within 60 days (unless otherwise indicated in the decision on reconsideration) after receipt of a timely appeal, issue a written decision on the findings. A decision of the Regional Labor Relations Officer may be appealed to the Director, Office of Labor Relations, by letter postmarked within 30 days of the Regional Labor Relations Officer's decision. Any appeal to the Director must set forth the aspects of the prior decision(s) that are in dispute and the reasons. The decision of the Director, Office of Labor Relations, shall be final.
- (b) Disputes arising out of the labor standards provisions of paragraph 6 shall not be subject to paragraph 5(a) of this form HUD-5370C. Such disputes shall be resolved in accordance with the procedures of the U.S. Department of Labor set forth in 29 CFR Parts 5, 6 and 7. Disputes within the meaning of this paragraph 5(b) include disputes between the Contractor (or any of its subcontractors) and the HA, HUD, the U.S. Department of Labor, or the employees or their representatives.

## 6. Contract Work Hours and Safety Standards Act

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

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

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

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

## **7. Subcontracts**

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

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

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

# CONFLICT OF INTEREST QUESTIONNAIRE

## FORM CIQ

For vendor or other person doing business with local governmental entity

This questionnaire reflects changes made to the law by H.B. 1491, 80th Leg., Regular Session.

This questionnaire is being filed in accordance with Chapter 176, Local Government Code by a person who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the person 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 person becomes aware of facts that require the statement to be filed. See Section 176.006, Local Government Code.

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

### OFFICE USE ONLY

Date Received

**1 Name of person 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 the originally filed questionnaire becomes incomplete or inaccurate.)

**3 Name of local government officer with whom filer has employment or business relationship.**

\_\_\_\_\_  
Name of Officer

This section (item 3 including subparts A, B, C & D) must be completed for each officer with whom the filer has an employment or other business relationship as defined by Section 176.001(1-a), Local Government Code. Attach additional pages to this Form CIQ as necessary.

A. Is the local government officer named in this section receiving or likely to receive taxable income, other than investment income, from the filer of the questionnaire?

Yes       No

B. Is the filer of the questionnaire receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer named in this section AND the taxable income is not received from the local governmental entity?

Yes       No

C. Is the filer of this questionnaire employed by a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership of 10 percent or more?

Yes       No

D. Describe each employment or business relationship with the local government officer named in this section.

**4**

\_\_\_\_\_  
Signature of person doing business with the governmental entity

\_\_\_\_\_  
Date

## **ATTACHMENT C PROFILE OF FIRM FORM**

**PROFILE OF FIRM FORM (Attachment C)**

**(This Form must be fully completed and placed under Tab No. 3 of the "hard copy" tabbed proposal submittal.)**

(1) Prime \_\_\_\_ Sub-contractor \_\_\_\_ (This form must be completed by and for each).

(2) Name of Firm: \_\_\_\_\_ Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

(3) Street Address, City, State, Zip: \_\_\_\_\_

(4) Please attached a brief biography/resume of the company, including the following information:  
 (a) Year Firm Established; (b) Year Firm Established in [JURISDICTION]; (c) Former Name and Year Established (if applicable); (d) Name of Parent Company and Date Acquired (if applicable).

(5) Identify Principals/Partners in Firm (Provide resumes for each under Tab No. 3)

| NAME | TITLE | % OF OWNERSHIP |
|------|-------|----------------|
|      |       |                |
|      |       |                |
|      |       |                |
|      |       |                |

(6) Identify the individual(s) that will act as project manager and any other supervisory personnel that will work on project; please submit under Tab No. 3 a brief resume for each. (Do not duplicate any resumes required above):

| NAME | TITLE |
|------|-------|
|      |       |
|      |       |
|      |       |
|      |       |

(7) Offerer's Diversity Statement: You must check all of the following that apply to the ownership of this firm and enter where provided the correct percentage (%) of ownership of each:

Caucasian American (Male) \_\_\_\_\_%     
  Public-Held Corporation \_\_\_\_\_%     
  Government Agency \_\_\_\_\_%     
  Non-Profit Organization \_\_\_\_\_%

Resident- (RBE), Minority- (MBE), or Woman-Owned (WBE) Business Enterprise (Qualifies by virtue of 51% or more ownership and active management by one or more of the following:

Resident-Owned\* \_\_\_\_\_%     
  African American \_\_\_\_\_%     
  Native American \_\_\_\_\_%     
  Hispanic American \_\_\_\_\_%     
  Asian/Pacific American \_\_\_\_\_%     
  Hasidic Jew \_\_\_\_\_%     
  Asian/Indian American \_\_\_\_\_%

Woman-Owned (MBE) \_\_\_\_\_%     
  Woman-Owned (Caucasian) \_\_\_\_\_%     
  Disabled Veteran \_\_\_\_\_%     
  Other (Specify): \_\_\_\_\_%

SWMBE Certification Number: \_\_\_\_\_

Certified by (Agency): \_\_\_\_\_

(NOTE: A CERTIFICATION/NUMBER NOT REQUIRED TO PROPOSE – ENTER IF AVAILABLE)



## **ATTACHMENT D SECTION 3 GUIDELINES AND FORMS**

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**Board Resolution No. 4062**  
**and Program Plan for Compliance with Requirements of Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) (Section 3) Part 135 – Economic Opportunities for Low- and Very Low-Income Persons.**

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**Purpose:**

The purpose of Section 3 of the Housing and Urban Development of 1968 (12 U.S.C. 1701u) (Section 3) is to ensure that employment and other economic and business opportunities generated by HUD Financial Assistance shall be directed to San Antonio Housing Authority (SAHA) Residents and other low- and very low-income persons, particularly those who are recipients of government housing assistance and to business concerns which provide economic opportunities to SAHA Residents and other low- and very low-income persons.

**General Policy Statement:**

It is the declared policy of the San Antonio Housing Authority (SAHA) that Equal Employment Opportunities shall be provided for every employee and applicant for employment regardless of race, color, religion, sex, national origin, handicap, or economic status; and, that through the award of contracts to contractors, vendors, and suppliers, that employment and business opportunities be created for residents of SAHA properties and other qualified low- and very low income persons residing within the geographical boundaries of City of San Antonio. This policy does not end with the mere prohibition of discriminatory practices by programs receiving HUD financial assistance or contractors, subcontractors, and vendors contracting with SAHA. SAHA recognizes its obligation as well as the obligation of potential contractors, subcontractors, to develop practical steps to achieve the goal of providing meaningful, full-time permanent employment opportunities, as well as business opportunities to SAHA Residents and other Section 3 eligible persons.

Such obligation shall be demonstrated not merely through inclusion of positive or “best effort” steps, but shall result in a reasonable level of success in the recruitment, employment, and utilization of SAHA Residents and other Section 3 eligible persons and businesses in the workforce and subcontracting of work resulting out of the expenditure of HUD funding. The SAHA’s Contracting Officer, through official resolution, shall examine and consider a contractor/vendor’s success in providing employment and business opportunities to SAHA Residents prior to acting on any proposed contract award.

**Numerical Goals for Section 3 Compliance:**

Consistent with 24 CFR 85.36 (c)(2), Section 3 is a federal statute that expressly encourages, to the maximum extent

feasible. To that end, SAHA has adopted the following numerical goals for meeting the greatest extent feasible requirement to provide economic opportunities to section 3 Residents and Section 3 Business Concerns in the procurement and awarding of modernization-funded construction, maintenance and professional service contracts:

NUMERICAL GOALS FOR SECTION 3 COMPLIANCE

| Areas of Focus<br>(Applies to all contracts)  | Numerical Goal |
|---|----------------|
| Contractor and Sub-contractor Hiring (full-time, part-time, temporary, Seasonal) applies to construction and maintenance service contracts. | 10%            |
| Contract Awards (applies to construction contracts).  | 10%            |
| All other Contract Awards (i.e., services, and professional services).  | 3%             |
| These goals apply to all Contractors as well as any tier Sub-contractor   |                |

Recipients and Contractors may demonstrate compliance with the “greatest extent feasible” requirement of Section 3 by meeting the numerical goals set forth in this Section 3 Program for providing training, employment, and contracting opportunities to Section 3 Residents and Section Business Concerns. Efforts to employ Section 3 Residents to the greatest extent feasible should be made at all job levels.

SAHA, in its own operations, shall endeavor to achieve the goals of Section 3 and shall provide equal responsibility to its contractors, vendors and suppliers to implement progressive efforts to also attain compliance. In doing so, SAHA shall evaluate contractors’ compliance towards achieving the goals of Section 3 and ensure a system of leveling sanctions against contractor, vendor, or supplier for non-compliance.

SAN ANTONIO HOUSING AUTHORITY  
Procurement and Contract Administration

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The numerical goals established above represent minimum numerical targets and all prospective contractors shall be advised and encouraged to seek Section 3 participation to the greatest extent feasible. Any contractor that meets the minimum numerical goals set forth above will be considered to have complied with the Section 3 requirements. Any contractor that does not meet the numerical goals set forth above has the burden of demonstrating why it was not feasible to meet the numerical goals. In the event no competing contractors were successful in meeting the minimum goals set forth above, SAHA shall consider documentation provided by the contractor evidencing impediments encountered despite actions taken to comply with the Section 3 requirements. Such evidence shall be subject to the satisfaction of the Authority.

All contractors submitting bids/proposals to the Housing Authority shall be required to complete certifications, as appropriate, as acknowledgment of the Section 3 contracting and employment provisions as required by this selection. Such certifications shall be supported with adequate evidence to support representations made. The certifications required to be submitted with the bid/proposal consist of the following:

- h. Certification for business concerns seeking Section 3 preference.
- e. Contractor certification of efforts to fully comply with

Employment and training provisions of Section 3.

Prior to the award of any contract, the contractor shall enter into negotiations with SAHA for the purpose of incorporating into the contract a provision, to the greatest extent possible, hiring of Public Housing residents or other Section 3 residents to be trained or employed on the contract. Such resulting provision shall obligate the contractor toward the greatest extent possible, achieving the numerical goals listed above and shall be based on a detailed workforce analysis to be compiled by the contractor and submitted to the Authority prior to award of contract.

**Definitions:**

Annual Contributions Contract (ACC) means the contract under the U.S. Housing Act of 1937 (1937 Act) between HUD and the PHA, or between HUD and the IHA that contains the terms and conditions under which HUD assists the PHA or IHA in providing decent, safe, and sanitary housing for low-income families. The ACC must be in the form prescribed by HUD under which HUD agrees to provide assistance in the development, modernization, and/or operation of a low-income housing project under the 1937 Act, and the PHA or IHA agrees to develop, modernize and operate the project in compliance with all provisions of the ACC and the 1937 Act, and all

HUD regulations and implementing requirements and procedures.

Applicant means any entity which makes an application for section 3 covered assistance, and includes, but is not limited to, and State, unit of local government, public housing agency, Indian housing authority, 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 (CHOO), resident management corporation, resident council, or cooperative association.

Contractor means any entity which contracts to perform work generated by the expenditure of section 3 covered assistance, or for work in connection with a section 3 covered project.

Department or HUD means the Department of Housing and Urban Development, including its field offices to which authority has been delegated to perform functions under this part.

Employment opportunities generated by section 3 covered assistance means all employment opportunities generated by the expenditure of section 3 covered public and Indian housing assistance (i.e., operating assistance, development assistance and modernization assistance, as described in § 135.3 (a) (1)).

Housing development means low-income housing owned, developed, or operated by public housing agencies or Indian housing authorities in accordance with HUD's public and Indian housing program regulations codified in 24 CFR Chapter IX.

HUD Youth build programs means programs that receive assistance under subtitle D of Title IV of the National Affordable Housing Act, as amended by the Housing and Community Development Act of 1992 (42 U.S.C. 12699), and provide disadvantaged youth with opportunities of employment, education, leadership development, and training in the construction or rehabilitation of housing for homeless individuals and members of low- and very low-income families.

TPA means the Job Training Partnership Act (29 U.S.C. 1579(a)).

Metropolitan area means a metropolitan statistical area (MSA), as established by the Office of Management and Budget.

SAN ANTONIO HOUSING AUTHORITY  
Procurement and Contract Administration

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New hires mean full-time employees for permanent, temporary or seasonal employment opportunities.

Other HUD programs means HUD programs, other than HUD public and Indian housing programs, that provide housing and community development assistance for “section 3 covered projects,” as defined in this section.

Public housing resident has the meaning given this term in 24 CFR part 963.

Recipient means 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.

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

Section 3-business concern means a business concern, as defined in this section:

- (1) That is 51 percent or more owned by section 3 residents; or
- (2) Whose permanent, full-time employees include persons, at least 30 percent of whom are currently section 3 residents, or within three years of the date of first employment with the business concern were section 3 residents; or
- (3) That provides evidence of a commitment to subcontract in excess of 25 percent of the dollar award of all subcontracts to be awarded to business concerns that meet the qualifications set forth in paragraphs (1) or (2) in this definition of “section 3 business concern.”

Section 3 covered assistance means:

- (1) Public and Indian housing development assistance provided pursuant to section 5 of the 1937 Act;
- (2) Public and Indian housing operating assistance provided pursuant to section 9 of the 1937 Act;
- (3) Public and Indian housing modernization assistance provided pursuant to section 14 of the 1937 Act.

Section 3 covered contract means 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 section 3-covered project.

Section 3-covered project means the construction, reconstruction, conversion, rehabilitation of housing (including reduction and abatement of lead-based paint hazards), other public construction which includes buildings, maintenance or improvements (regardless of ownership) assisted with housing or community development assistance.

Section 3 resident means:

- (1) A public housing resident; or
- (2) An individual who resides in the metropolitan area or non-metropolitan county in which the section 3 covered assistance is expended, and who is:
  - I. A low-income person, as this term is defined in section 3(b)(2) of the 1937 Act (42 U.S.C. 1437a(b)(2)). Section 3(b)(2) of the 1937 Act defines this term to mean families (including single persons) whose incomes do not exceed 80% of the median family income for the area, as determined by the Secretary, with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80% of the median for the area on the basis of the Secretary’s findings that such variations are necessary because of prevailing levels of construction costs or unusually high or low-income families; or
  - II. A very low-income person, as this term is defined in section 3(b)(2) of the 1937 Act (42 U.S.C. 1437a(b)(2)). Section 3(b)(2) of the 1937 Act (42 U.S.C. 1437a(b)(2)) defines this term to mean families (including single persons) whose incomes do not exceed 50% of the median family income for the area, as determined by the Secretary with adjustments made for smaller or larger families, except that the Secretary may establish income ceilings higher or lower than 50% of the median for the area on the basis of the Secretary’s findings that such variations are necessary because of unusually high or low family incomes.
- (3) A person seeking the training and employment preference provided by section 3 bears the responsibility of providing evidence (if requested) that the person is eligible for the preference.

Service area means the geographical area in which the persons benefiting from the section 3-covered project reside.

Subcontractor means any entity (other than a person who is an employee of the contractor) which has a contract with a contractor to undertake a portion of the contractor’s obligation for the performance of work generated by the

expenditure of section covered assistance, or arising in connection with a section 3 covered project.

Section 3 joint venture means 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:

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

**Preference for Section 3 Business Concerns (Contracting)**

SAHA in accordance with Section 3 of the Housing and Urban development Act of 1968, requires contractors and sub-contractors (including professional service contracts) to direct their efforts towards awarding contracts to section 3 business concerns in the following order of priority and expend greatest extent feasible efforts to achieve, at minimum, the numerical goals established in this section:

▪ **1<sup>st</sup> Priority – Category 1 Section 3 Businesses**

Business concerns that are 51% or more owned by residents of the housing development(s) for which work is performed, or whose full-time, permanent workforce includes 30% of these persons as employees.

▪ **2<sup>nd</sup> Priority – Category 2 Section 3 Businesses**

Business concerns that are 51% or more owned by residents of other San Antonio Housing Authority Public Housing developments other than the development(s) where the work is performed or whose full-time permanent workforce includes 30% of these person(s) as employees.

▪ **3<sup>rd</sup> Priority – Category 3 Section 3 Businesses**

Business concerns that are designated HUD Youth-build programs being carried out in the City of San Antonio.

▪ **4<sup>th</sup> Priority – Category 4 Section 3 Businesses**

Business concerns that are 51% or more owned by a section 3 resident(s), or whose permanent, full-time workforce includes no less than 30% Section 3 residents (category 4 businesses), or that subcontract in excess of 25% of the total amount of sub-contracts to Section 3 business concerns.

A section 3-business concern seeking a contract for a sub-contract shall submit evidence to SAHA, if requested,

sufficient to demonstrate to the satisfaction of the Contracting Officer that the business concern is responsible and has the ability to perform successfully under the terms and conditions of the proposed contract. Federal Regulations at 24CFR85.36, concerning the ability of the contractor to perform successfully, requires consideration of the contractor’s record in complying with Public Policy requirements, technical capacity, financial capacity and integrity. Section 3 compliance is a matter of properly considered as part of this determination.

**Preference in Award of Section 3 Contracts**

Preference in the award of Section 3 contracts that are awarded under the sealed bid procurement process shall be provided in accordance with the following:

*Sealed bids shall be solicited from all businesses (Section 3 business concerns, and non-Section 3 business concerns). An award will be made to the qualified Section 3 business concern with the highest priority ranking and with the lowest responsive bid, provided that bid is:*

- A. *Within the maximum total contract price established in the Authority’s budget for the project for which bids are being taken.*
- And
- B. *It is not more than “X” higher than the total bid price of the lowest responsive bid from any responsive bidder.*

“X” IS DETERMINED AS FOLLOWS:

|  | “X” = Lesser of:                              |
|--|---|
| When the lowest responsive bid is less than \$100,000  | 10% of that bid or \$9,000                    |
| <b>WHEN THE LOWEST RESPONSIVE BID IS:</b>              |   |
| At least \$100,000, but less than <b>\$200,000</b>     | 9% of that bid or \$16,000                    |
| At least \$200,000, but less than <b>\$300,000</b>     | 8% of that bid or \$21,000                    |
| At least \$300,000, but less than <b>\$400,000</b>     | 7% of that bid or \$24,000                    |
| At least \$400,000, but less than <b>\$500,000</b>     | 6% of that bid or \$25,000                    |
| At least \$500,000, but less than <b>\$1 Million</b>   | 5% of that bid or \$40,000                    |
| At least \$1 Million, but less than <b>\$2 Million</b> | 4% of that bid or \$60,000                    |
| At least \$2 Million, but less than <b>\$4 Million</b> | 3% of that bid or \$80,000                    |
| At least \$4 Million, but less than <b>\$7 Million</b> | 2% of that bid or \$105,000                   |
| <b>\$7 Million or more</b>                             | 1-1/2% of the lowest bid with no dollar limit |

Preference in the award of Section 3 contracts that are awarded under the competitive negotiation (qualification based) method of procurement shall be accomplished by providing an evaluation criteria specific to the Section 3 rule and assigning a value equivalent to not more than fifteen (15) percent of the total number of available rating points. Such Section 3 evaluation criteria shall be for the provision of the preference for Section 3 business concerns.

**Preference for Section 3 Residents (Employment & Training)**

SAHA, in accordance with Section 3 of the Housing and Urban Development Act of 1968, requires contractors and sub-contractors (including professional service contracts) to direct their efforts toward providing training and employment opportunities to Section 3 residents in the following order of priority and expend greatest extent feasible efforts to achieve at minimum, the numerical goals established in this section:

- 1<sup>st</sup> Priority – Category 1 Section 3 Residents  
Residents of the development for which work is performed.
- 2<sup>nd</sup> Priority – Category 2 Section 3 Residents  
Residents of other Public Housing developments outside of the development(s) where the work is performed.
- 3<sup>rd</sup> Priority – Category 3 Section 3 Residents  
Residents of the City of San Antonio who are participants in HUD Youthbuild programs being carried out in the City.
- 4<sup>th</sup> Priority – Category 4 Section 3 Residents  
Other Section 3 Residents.

**Certification Procedure:**

SAHA has its own program of self- certification for individuals and business concerns seeking recognition as a Section 3 resident or Section 3 business concern as defined in this Section 3 Program. SAHA's Procurement and Contract Administration department is charged with administering SAHA's Section 3-certification program. Any Individual or business concern seeking Section 3 preferences in the awarding of contracts or purchase agreements shall complete appropriate certification forms and provide adequate documentation as evidence of eligibility for preference under the Section 3 program. An individual or business concern may apply for certification as a Section 3 resident or Section 3 business concern either prior to bidding for SAHA work or during the actual bidding process. Any business concern that submits certification for preference after receipt of bid will not be considered eligible for Section 3 preference in the evaluation of that specific bid award. Certifications for Section 3 preference for business concerns must be received by SAHA prior to the submission of bids or along

with the bid. Certifications for eligibility as a Section 3 resident may be made at any time. Individuals or business concerns seeking to file for Section 3 preference shall contact:

A resident seeking preference in training and employment shall certify that he/she is a Section 3 resident by completing the appropriate certification form and attaching adequate proof of Section 3 eligibility.

A business concern seeking preference in the awarding of a contract or purchase shall certify that the business concern is a Section 3 business by completing the appropriate certification form and attaching adequate proof of Section 3 eligibility as required.

**Protest Procedure:**

SAHA desires to offer to concerned parties a procedure whereby complaints alleging non-compliance with the Section 3 Statute can receive prompt and equitable hearing and resolution. Protest surrounding SAHA's Section 3 program may be submitted in writing to the Section 3 Coordinator:

All complaints of non-compliance with the Section 3 Statue shall conform with the following requirements:

6. Complaints shall be filed in writing and shall contain the name, address, and phone number of the person filing the complaint, and a brief description of the alleged violation of the regulations.
- Complaints shall be filed within thirty (30) calendar days after the complaint becomes aware of the alleged violation.
7. An investigation as may be appropriate, will follow the filing of a complaint. The investigation will be conducted by SAHA's Section 3 Coordinator. These rules contemplate informal, but thorough investigations, affording all interested persons and their representative, if any, an opportunity to submit testimony and/or evidence as may be available and relevant to the complaint.
- g. Written documentation as to the validity of the complaint and a description of the findings or resolution, if any, will be issued by the Section 3 Coordinator no later than thirty (30) days after the filing of a complaint.

In cases where concerned parties wish to have its complaint considered outside of SAHA, a complaint may be filed with the Assistant Secretary for Fair Housing and Equal Opportunity, Department of Housing and Urban Development, Washington, D.C., 20410. A complaint must be received no later than 180 days from the date of the action or omission upon which the complaints based, unless the time for filing is extended by the Assistant Secretary for good cause shown.



**Contract & Subcontract Activity**  
For The San Antonio Housing Authority

Reporting Qtr: \_\_\_\_\_

Contract No: \_\_\_\_\_

Prime Contractor ID No: \_\_\_\_\_

Date Submitted: \_\_\_\_\_

Award Amount: \_\_\_\_\_

| Grantee/Project Owner/Developer/Sponsor/Builder/Agency |      |                                    | Location (City, State, Zip Code) |       |          | Amount of Contract or Sub-Contract | Type of trade Code(See Below) | Subcontractor Business Racial/Ethnic Code (See Below) | Women Owned Business (Yes or No) | Sub-Contractor Identification (ID) Number | Section 3 Business (Yes or No) |
|--|------|------------------------------------|----------------------------------|-------|----------|------------------------------------|-------------------------------|---|----------------------------------|---|--------------------------------|
| Name of Contact Person                                 |      | Phone Number (Including Area Code) | Reporting Period                 |       |          |                                    |                               |   |                                  |   |                                |
| Item No.   | Name | Street Address                     | City                             | State | Zip Code | A.                                 | B.                            | C.  | D.                               | E.  | F.                             |
| 1  |      |                                    |                                  |       |          |                                    |                               |   |                                  |   |                                |
| 2  |      |                                    |                                  |       |          |                                    |                               |   |                                  |   |                                |
| 3  |      |                                    |                                  |       |          |                                    |                               |   |                                  |   |                                |
| 4  |      |                                    |                                  |       |          |                                    |                               |   |                                  |   |                                |
| 5  |      |                                    |                                  |       |          |                                    |                               |   |                                  |   |                                |
| 6  |      |                                    |                                  |       |          |                                    |                               |   |                                  |   |                                |
| 7  |      |                                    |                                  |       |          |                                    |                               |   |                                  |   |                                |
| 8  |      |                                    |                                  |       |          |                                    |                               |   |                                  |   |                                |
| 9  |      |                                    |                                  |       |          |                                    |                               |   |                                  |   |                                |
| 10   |      |                                    |                                  |       |          |                                    |                               |   |                                  |   |                                |
| 11   |      |                                    |                                  |       |          |                                    |                               |   |                                  |   |                                |
| 12   |      |                                    |                                  |       |          |                                    |                               |   |                                  |   |                                |
| 13   |      |                                    |                                  |       |          |                                    |                               |   |                                  |   |                                |
| 14   |      |                                    |                                  |       |          |                                    |                               |   |                                  |   |                                |
| 15   |      |                                    |                                  |       |          |                                    |                               |   |                                  |   |                                |

Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u., mandates that the Department ensure that employment and other economic activities generated by its housing and community development assistance programs are directed toward Low- and very low-income persons, particularly those who are recipients of government assistance for housing. The regulations are found at 24 CFR Part 135. The information will be used by the Department to monitor program recipients' compliance with Section 3, to assess the results of the Department's efforts to meet the statutory objectives of Section 3, to prepare reports to HUD, and by recipients as a self-monitoring tool.

**B: Type of Trade Codes**

- 1 = New Construction
- 2 = Substantial Rehab.
- 3 = Repair
- 4 = Service
- 5 = Project Mangt.
- 6 = Professional
- 7 = Tenant Services
- 8 = Education/Training
- 9 = Arch./Engrg. Appraisal
- 0 = Other

**C: Racial/Ethnic Codes:**

- 1 = White Americans
- 2 = Black Americans
- 3 = Native Americans
- 4 = Hispanic Americans
- 5 = Asian/Pacific Americans
- 6 = Hasidic Jews

Certified this \_\_\_\_\_ day of \_\_\_\_\_

By: \_\_\_\_\_

**Note: Please Attach all Compliance Reports (S3-60002B Forms)**





## **Contractor's Section 3 Compliance Report - Instructions**

---

- 1) Check-mark the applicable box if you're a Contractor or Sub-contractor.
- 2) Enter the business name of the Prime Contractor or Sub-Contractor who is reporting section 3 compliance activity.
- 3) Enter the business address of the Prime Contractor or Sub-Contractor who is reporting section 3 compliance activity.
- 4) Enter the Area code and telephone number of the Prime Contractor or Sub-Contractor who is reporting section 3 compliance activity.
- 5) Enter the Contract Number issued by SAHA for the award in which you are contracting or sub-contracting.
- 6) If you are a sub-contractor, enter your federal identification number.
- 7) Enter the date in mm/dd/yyyy format for which this contract started.
- 8) Enter the date in mm/dd/yyyy format for which this contract ends.
- 9) Enter the name of the person with knowledge of the award and the recipients implementation of section 3.
- 10) Enter the months in which you are reporting section 3 compliance activity.
- 11) Enter the reporting quarter in which you are reporting section 3 compliance activity. The Quarters for which we reference by HUD standards are as follows – (1<sup>st</sup> qtr Oct, Nov, Dec) (2<sup>nd</sup> qtr. Jan, Feb, Mar) (3<sup>rd</sup> qtr. Apr, May, Jun) (4<sup>th</sup> qtr. Jul, Aug, Sep).
- 12) Enter the Federal Identification of the Prime Contractor of which this contract was awarded.
- 13) Enter the date in mm/dd/yyyy format that you are submitting the Contractor's Section 3 Compliance Report.
- 14) Enter the total dollar amount, rounded to the nearest dollar received by the recipient under this contract.
- 15) Enter the type of service you are providing; e.g., construction, non-construction, secretarial, carpentry, painting, electrical, masonry, etc.
- 16) Identify efforts made to direct the employment and other economic opportunities achieved toward low and very low income persons, particularly those who are recipients of government assistance for housing.
- 17) Enter the job category skill for work performed; e.g., professional, secretarial, carpentry, painting, electrical, masonry, etc. Professionals are defined as people who have special knowledge of an occupation (e.g., supervisors, architects, surveyors, planners, and computer programmers). For Construction positions, list each trade and provide data in columns B,C,D for each trade where persons were employed.
- 18) Enter the number of new hires and the total amount of hours accumulated under the contract for which you are reporting this period for the stated job category. New hires refers to a person who is not on the contractor's or recipients payroll for employment at the time of selection for the section 3 covered award.
- 19) Enter the number of new hires that were section 3 residents and the total amount of hours accumulated under the contract for which you are reporting this period for the stated job category. Section 3 new hires refers to a section 3 resident who is not on the contractor's or recipient's payroll for employment at the time of selection for the section 3 covered award.
- 20) Enter the number of section 3 residents that were employed and trained and the total amount of hours accumulated under this contract for the stated job category.
- 21) Sign and date that you certify the information you are providing is accurate and true.
- 22) Forward original report form (S3-60002b) to Prime Contractor. Prime Contractor shall forward to Project Manager. Project Manager will forward Original to SAHA Section 3 Coordinator.

## Certification for Business Concerns Seeking Section 3 Preference

Name of Business: \_\_\_\_\_

Address of business: \_\_\_\_\_

Type of Section 3 Business:

Corporation

Partnership

Phone No.: \_\_\_\_\_

Sole Proprietorship

Joint Venture

Pager No.: \_\_\_\_\_

Name and Address of Section 3 Resident(s) in 51% ownership position:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Attached is the following documentation as evidence of section 3 status. X as Appropriate

- Copy of resident lease with San Antonio Housing Authority
- Copy of receipt of public assistance
- Copy of evidence of participation in a public assistance program
- Other evidence as appropriate

For the Section 3 business entity as applicable:

- Copy of Articles of Incorporation
- Assumed business Name Certificate
- List of owners/stockholders and % ownership of each owner
- Organizational chart w/names, titles & brief functional statement
- Certificate of Good Standings
- Partnership Agreement
- Corporation Annual Report
- Latest Board minutes appointing officers
- Additional Documentation

CORPORATE SEAL

Attested by:

Name:

Date:

\_\_\_\_\_  
(Authorizing Name & Signature)

**SECTION 3 PROGRAM**  
**Contractor Certification of Efforts to Fully Comply with**  
**Employment and Training Provisions of Section 3**

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

- Is a Section 3 Business concern. A Section 3 Business concern means a business concern:
  1. That is 51% or more owned by Section 3 Resident(s); or
  2. Whose permanent, full-time employees include persons, at least 30% of whom are currently Section 3 residents, or within the last three years of the date of first employment with the business concern were Section 3 residents; or
  3. That provides evidence of a commitment to subcontract in excess of 25% of the dollar value of all subcontracts to be awarded to business concerns that meet the qualifications set forth in paragraphs 1 or 2 herein.
- Is Not a Section 3 Business concern but who has and will continue to seek compliance with Section 3 by certifying to the following efforts to be undertaken.

**EFFORTS TO AWARD SUBCONTRACTOR TO SECTION 3 CONCERNS:**  
**(Check ALL that apply.)**

- By contacting business assistance agencies, minority contractors associations and community organizations to inform them of the contracting opportunities and requesting their assistance in identifying Section 3 businesses which may solicit bids for a portion of the work.
- By advertising contracting opportunities by posting notices, which provide general information about the work to be contracted and where to obtain additional information, in the common areas of the applicable development(s) owned and managed by the Housing Authority.
- By providing written notice to all known Section 3 business concerns of contracting opportunities. This notice should be in sufficient time to allow the Section 3 business concerns to respond to bid invitations.
- By following up with Section 3 business concerns that have expressed interest in the contracting opportunities.
- By coordinating meetings at which Section 3 business concerns could be informed of specific elements of the work for which subcontract bids are being sought.
- By conducting workshops on contracting procedures and specific contracting opportunities in a timely manner so that Section 3 business concerns can take advantage of contracting opportunities.
- By advising Section 3 business concerns as to where they may seek assistance to overcome barriers such as inability to obtain bonding, lines of credit, financing, or insurance and aiding Section 3 businesses in qualifying for such bonding, financing, insurance, etc.
- Where appropriate, by breaking out contract work into economically feasible units to facilitate participation by Section 3 businesses
- By developing and using a list of eligible Section 3 business concerns
- By actively supporting and undertaking joint ventures with Section 3 businesses

**EFFORTS TO PROVIDE TRAINING AND EMPLOYMENT TO SECTION 3 RESIDENTS**

- By entering into a "first source" hiring agreements with organizations representing Section 3 residents
- By establishing training programs, which are consistent with the requirements of the Department of Labor, specifically for Section 3 residents in the building trades.
- By advertising employment and training positions to dwelling units occupied by Category 1 and 2 residents
- By contacting resident councils and other resident organizations in the affected housing development to request assistance in notifying residents of the training and employment positions to be filled
- By arranging interviews and conducting interviews on the job site
- By undertaking such continued job-training efforts as may be necessary to ensure the continued employment of Section 3 residents previously hired for employment opportunities.

\_\_\_\_\_  
Authorized Signature of the Bidder

## APPLICANT "SECTION 3" CERTIFICATION FORM

---

Name: \_\_\_\_\_  
 Legal Address: \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
 Phone: \_\_\_\_\_ or fax: \_\_\_\_\_

Position Applied For: \_\_\_\_\_

**(All applicants are required to complete and sign this form.)**

In general, Section 3 gives applicants whose household income in the past year was less than 80% of the area median income a preference in the hiring process so long as they are qualified for the position for which they are applying.

Only those applicants who complete the disclosure and meet the Section 3 requirements will be eligible for the preference, HOWEVER, employment offers for applicants claiming a Section 3 preference will be conditional upon providing proof of eligibility at the time of hire.

**CAUTION: Any applicant falsely claiming a Section 3 preference will immediately be removed from consideration of employment.**

-----  
 \_\_\_\_\_ Option 1: I choose not to disclose this information and understand that I will not be granted a Section 3 preference in the hiring process

OR

\_\_\_\_\_ Option 2: I choose to disclose the following information to determine if I am eligible for a Section 3 preference (complete questions below)

1. Are you a resident of public housing or Section 8? (Check One) \_\_\_\_\_ Yes \_\_\_\_\_ No
2. The number of persons in my household is \_\_\_\_\_.
3. From the chart below, locate the number of persons in your household and enter the dollar amount from that box here \_\_\_\_\_.

| # of persons in Household                      | 1        | 2        | 3        | 4        | 5        | 6        | 7        | 8        |
|--|----------|----------|----------|----------|----------|----------|----------|----------|
| 80% Area Median Income (FY 2009 Income Limits) | \$32,050 | \$36,600 | \$41,200 | \$45,750 | \$49,400 | \$53,050 | \$56,750 | \$60,400 |

### Section 3 Preference Eligibility Test

\_\_\_\_\_ Yes \_\_\_\_\_ No My legal address is within Bexar County, TX.

\_\_\_\_\_ Yes \_\_\_\_\_ No My household income last year was equal to or less than the amount listed on Line 3.

If the answers to both questions are YES, you are entitled to a Section 3 preference.

-----  
 By signing, I certify that all of the information given above is true and accurate and that if found to be inaccurate, I understand that I may be disqualified as an applicant and/or a certified section 3 resident and may be grounds for termination of any employment or contract that resulted from this application and/or certification.

Signature \_\_\_\_\_

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

# **ATTACHMENT E WAGE DECISION**



U.S. Department of Housing and Urban Development  
San Antonio Field Office  
Office of Labor Relations  
106 South St. Mary's Street, Suite 405  
San Antonio, Texas 78205-3625  
Ph - 210-475-6818 Fax - 210-472-6804  
[www.hud.gov](http://www.hud.gov) [www.espanol.hud.gov](http://www.espanol.hud.gov)

March 29, 2010

Lourdes Castro Ramirez, Executive Director  
San Antonio Housing Authority  
818 S. Flores Street  
San Antonio, TX 78204

Dear Ms. Castro Ramirez:


Subject: Maintenance Wage Rate Determination-Fiscal Year 2010

Enclosed is Form HUD-52158, Maintenance Wage Rate Determination, which lists the schedule of prevailing maintenance wage rates for maintenance workers employed by the Housing Authority or by maintenance contractor(s) in the operation of Housing Authority developments. This schedule has been established pursuant to Section 12(a) of the United States Housing Act of 1937, as amended, and is effective for a one-year period beginning on the date shown.

The Housing Authority and its contractors must pay to maintenance workers no less than the wage rate(s) indicated for the type of work they actually perform. The current Form HUD-52158 must be posted at an appropriate site(s) readily accessible to all maintenance employees.

The Housing Authority must maintain appropriate records (payrolls, work orders, job descriptions, training program materials and apprentice/trainee registrations, and any other data related to the employment and utilization of maintenance laborers and mechanics) which must be preserved for no less than three years, or until resolution of any dispute. Employers under contract to the Housing Authority to provide maintenance work must submit to the Housing Authority their original employment records as described above.

Housing Authorities not satisfied with this determination may still submit documentation to this office in accordance with the new policies and procedures previously provided to you. If you have any questions, please contact me at 210-475-6818.

Sincerely,  
  
Karen R. Clark  
Labor Relations Specialist

Enclosure

RECEIVED  
MAR 31 2010  
EXECUTIVE OFFICE

|  |   |                                     |
|--|---|-------------------------------------|
| <b>Maintenance Wage Rate Determination</b> | <b>U.S. Department of Housing and Urban Development<br/>Office of Labor Relations</b> | <b>HUD FORM 52158<br/>(06/2006)</b> |
|--|---|-------------------------------------|

|   |   |  |
|---|---|--|
| <b>Agency Name:</b><br><br><b>San Antonio Housing Authority</b> | <b>LR 2000 Agency ID No:</b><br><br><b>TX006A</b> | <b>Wage Decision Type:</b><br><input checked="" type="checkbox"/> Routine Maintenance<br><input type="checkbox"/> Nonroutine Maintenance |
|   | <b>Effective Date:</b><br><br><b>7/1/2010</b>     | <b>Expiration Date:</b><br><br><b>6/30/2011</b>  |

The following wage rate determination is made pursuant to Section 12(a) of the U.S. Housing Act of 1937, as amended, (public housing agencies), or pursuant to Section 104(b) of the Native American Housing Assistance and Self-determination Act of 1996, as amended, (Indian housing agencies). The agency and its contractors may pay to maintenance laborers and mechanics no less than the wage rate(s) indicated for the type of work they actually perform.

*Karen Clark*  
**Karen Clark, Labor Relations Specialist** **Date** **3/24/10**

HUD Labor Relations  
(Name, Title, Signature)

| WORK CLASSIFICATION(S) | HOURLY WAGE RATES |                            |
|------------------------|-------------------|----------------------------|
|                        | BASIC WAGE        | FRINGE BENEFIT(S) (if any) |
| Broiler Mechanic       | \$15.35           | \$4.61                     |
| Carpenter              | \$14.20           | \$4.26                     |
| Construction Inspector | \$15.35           | \$4.61                     |
| Custodian Lead         | \$10.09           | \$3.03                     |
| Custodian              | \$9.36            | \$2.81                     |
| Electrician            | \$15.35           | \$4.61                     |
| HQ Inspector           | \$13.16           | \$3.94                     |
| HVAC Mechanic          | \$15.35           | \$4.61                     |
| Plumber                | \$14.80           | \$5.03                     |
| Maintenance Tech       | \$10.95           | \$3.28                     |
| Landscaper             | \$10.95           | \$3.65                     |

|  |   |
|--|---|
|  | <b>FOR HUD USE ONLY</b><br><b>LR2000:</b><br><b>Log in: OMW5411</b> |
|--|---|