



REQUEST FOR QUALIFICATIONS (RFQ)

FOR

Bond Counsel

FOR

**HOUSING AUTHORITY OF THE
CITY OF SAN ANTONIO, TEXAS**

AND

AFFILIATED ENTITIES

RFQ No. 1101-961-49-3428

Prepared by:

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

President & CEO Lourdes Castro Ramirez

April 2011

Request for Qualifications For Bond Counsel

Date Issued: April 6, 2011

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 Attorneys-at-Law or Legal Firms licensed to practice in the State of Texas for Bond Counsel for SAHA as specified in this solicitation. The Bond Counsel will provide legal services in connection with the issuance of bonds.

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 Qualifications (RFQ) 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 RFQ submittal deadline. The request must be addressed to Carl Bottoms, Procurement Supervisor, 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 April 20, 2011 at 10:00 A.M. Central Time at the SAHA Central Office, 818 South Flores, San Antonio, Texas 78204.

All responses to the RFQ must be enclosed in a sealed envelope and labeled as follows with the specific information: **RFQ# 1101-961-49-3428 Bond Counsel, Due Date and Time: May 26, 2011, 11:00 A.M. (CST). The RFQ 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 RFQ. 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 Bond Counsel until **11:00 A.M.** Central Time **May 26, 2011**, 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: Carl Bottoms
Procurement Supervisor
(210) 477-6165

Notice: Contact with members of the SAHA Board of Commissioners, or SAHA officers and employees other than the contact person shown above, by any prospective Proposer, after publication of the RFQ and prior to the execution of a contract with the successful proposer(s) could result in disqualification of your proposal. In fairness to all prospective proposer(s) during the RFQ process, if SAHA meets in person with anyone representing a potential provider of these services to discuss this RFQ other than at the pre-submittal meeting, an addendum will be issued to address all questions so as to insure no Proposer has a competitive advantage over another. This does not exclude meetings required to conduct business not related to the RFQ, or possible personal presentations after written qualifications 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.

RFQ INFORMATION AT A GLANCE

SAHA CONTACT PERSON	Carl Bottoms, Procurement Supervisor 818 S. Flores San Antonio, TX 78204-1400 carlton_bottoms@saha.org Phone: 210-477-6165 Fax: 210-477-6167
HOW TO OBTAIN THE RFQ DOCUMENTS ON THE APPLICABLE INTERNET SITE	1. Access: www.saha.org . 2. Drag your pointer over “Business with SAHA” and click on “Current Bids”. 3. Follow the listed directions or 4. Access http://nahro.economicengine.com .
HOW TO FULLY RESPOND TO THIS RFQ BY SUBMITTING A PROPOSAL	Submit 5 original copies of your proposal to the SAHA Procurement Dept. following the format as described under Item 5, Proposal Format.
PRE-SUBMITTAL MEETING	April 20, 2011 at 10:00 A.M. SAHA Central Office, 818 S. Flores, San Antonio, TX 78204
PROPOSAL SUBMITAL RETURN & DEADLINE	May 26, 2011 at 11:00 A.M. SAHA Procurement Dept. 818 S. Flores, San Antonio, TX 78204
ANTICIPATED APPROVAL BY THE BOARD	July 2011

REQUEST FOR QUALIFICATIONS

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 Attorneys-at-Law and Legal Firms licensed to practice in the State of Texas for Bond Counsel as specified in this solicitation.
- 1.2** Prospective proposers acknowledge by downloading and receiving the RFQ 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 RFQ 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 “Contract Administrator (CA)”** is the SAHA Director of Procurement or his/her designated representative.
 - 1.3.3 “Contracting Officer”** when named within an RFQ document shall refer to the President and CEO.
 - 1.3.4 “Contract”** refers to the fully executed written agreement that ensues from the RFQ. Whereas all RFQ documents are included, by reference, as a part of the ensuing contract, when "contract" is referred to within an RFQ document; such is referring to both the RFQ documents and the ensuing contract document.
 - 1.3.5 “Contractor”** and the term "successful proposer" may be used interchangeably.
 - 1.3.6 “Day(s)”** unless otherwise specified, shall refer to calendar days.
 - 1.3.7 “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 RFQ, 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).
 - 1.3.8 “Herein”** shall refer to all documents issued pursuant to the noted RFQ, including the RFQ documents and the attachments.

- 1.3.9** “**President & CEO**” is the SAHA President and Chief Executive Officer and/or Interim President and Chief Executive Officer.
- 1.3.10** “**Offer**” is the proposal submittal that the proposer delivers to SAHA in response to the RFQ.
- 1.3.11** “**Offeror**” or “**Offerors**” are the proposer or proposers.
- 1.3.12** “**Parties**” When “the parties,” “both parties” and “either party” is stated within the RFQ 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 RFQ 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 RFQ or contract, the protestant must have been involved in the RFQ process in some manner as a prospective proposer or proposer.
- 1.3.13** “**Prospective Proposer**” “**Proposer**” and/or “**Bidder**” A prospective proposer is a firm or individual who has been notified of the RFQ solicitation and/or who has requested and/or received the RFQ documents and is considering responding with a proposal; a proposer is a firm or individual who has submitted a proposal in response to the RFQ. 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 RFQ-meaning, certain notices are only delivered to proposers and not to prospective proposers.
- 1.3.16** “**Request For Qualifications**” (**RFQ**) 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** “**RFQ 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 <http://nahro.economicengine.com> Internet site and: www.saha.org, that SAHA makes available to all prospective proposers wherein are SAHA's detailed 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 **April 20, 2011** at 10:00 a.m. Central Time at SAHA Central Office, located at 818 South Flores, San Antonio, Texas 78204. The purpose of this conference is to assist prospective proposers in the full understanding of the RFQ documents so proposers are confident in submitting an appropriate proposal; therefore, at this conference, SAHA will conduct an overview of the RFQ documents, including attachments. Because the purpose of this conference is to review the RFQ documents, attendees should bring a copy of the RFQ documents to this conference. **SAHA will not distribute at this conference any copies of the RFQ documents.** Questions concerning the contents of the project and procedural aspects of the RFQ will be answered at this time; however, the CA 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 and <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 CA seven (7) days prior to the proposal submission deadline.
- 1.5 Proposal Submission Deadline: May 26, 2011** at 11:00 a.m. (Central Time) at SAHA Central Office, 818 S. Flores, San Antonio, Texas 78204.
- 1.6 Proposer's Responsibilities-Contact with SAHA:** It is the responsibility of the proposer to address all communication and correspondences pertaining to this RFQ 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 RFQ. 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 RFQ 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 RFQ: A two (2) year firm fixed contract with the option to renew at the sole discretion of SAHA for up to three (3) additional one-year periods.**

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 RFQ process, or to terminate the RFQ 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 RFQ.
- 2.3** SAHA reserves the right to terminate a contract awarded pursuant to this RFQ, 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 RFQ.
- 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 RFQ, including but not necessarily limited to incomplete proposals and/or proposals offering alternate or non-requested services.
- 2.8** SAHA shall have no obligation to compensate any proposer for any costs incurred in responding to this RFQ.
- 2.9** SAHA reserves the right to at any time during the RFQ 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 RFQ documents issued, within any attachment or drawing, or within any addenda issued. All addenda will be posted on SAHA's website www.saha.org and <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 or to make an award with or without negotiations or Best and Final Offers (BAFO).
- 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 RFQ 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.

3.0 SCOPE OF PROPOSAL/TECHNICAL SPECIFICATIONS:

- 3.1 Bond Counsel shall provide legal services in connection with the issuance of bonds on an "as needed" basis during the term of the contract at the request of SAHA. Bond Counsel is expected to assign those attorneys and professionals employed by the firm who are best suited to appropriately respond to such

requests in connection with the issuance of bonds and with ongoing compliance of any/all trust indentures.

- 3.2 Bond Counsel shall provide legal advice on developing and structuring bond issues and financial transactions, including, without limitation, the tax aspects thereof.
- 3.3 Bond Counsel shall provide advice regarding suitable forms of financing for housing programs or projects, including any refinancing or restructuring of existing projects as well as new projects that are under consideration.
- 3.4 Bond Counsel shall draft, or assist in the drafting of official statements, trust indentures, loan agreements, and other documents relating to the issuance of bonds.
- 3.5 Bond Counsel shall provide advice and analysis regarding relevant federal, State, or municipal law, and any proposed federal, State or local legislation or regulations as it relates to public finance.
- 3.6 Bond Counsel shall render opinions concerning the validity of the bonds issued and, if applicable, the tax-exempt status of such bonds from federal, State, and local taxes, and other related matters.
- 3.7 Bond Counsel shall render supplemental opinions as requested, including the exemption of bonds from certain securities laws.
- 3.8 Bond Counsel shall provide advice on tax matters relating to properties financed by bonds and render tax opinions.
- 3.9 Bond Counsel shall provide any other legal services as requested by the President and CEO.

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 RFQ Forms, Documents, Specifications and Drawings:

4.2.1 Prior to submitting a proposal in response to the RFQ, it shall be each prospective proposer's responsibility to examine carefully and, as

may be required, properly complete all documents issued pursuant to this RFQ.

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 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 five (5) original 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:

RFQ # {Insert Number}
{Insert Exact Title of RFQ}
{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 Form HUD-5369B (8/93), *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 withdraw 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.

4.4 Exceptions to Specifications:

4.4.1 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 RFQ requirements, or may reject the prospective proposer's request.

4.4.2 When taking exception, prospective proposers must propose services that meet the requirements of the RFQ 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 RFQ 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 RFQ 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 RFQ 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 RFQ document. This one-page Form must be fully completed, and submitted under this tab as a part of the proposal submittal.

5.2.2 Tab 2, Form HUD Forms and Conflict of Interest Questionnaire: These Forms are attached hereto as Attachment B to this RFQ 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 RFQ 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. Also submit the Company Profile under this tab.

5.2.4 Tab 4, Experience, Managerial Capacity, Financial Viability: The Proposer must submit under this tab a concise description of its past performance, managerial and financial capacity and utilization plan to deliver the proposed services, to include:

- 5.2.4.1 Experience:** List your firm's experience as Bond Counsel and the length of time your firm has been providing the services requested by this RFQ. Include your firm's experience with public entities, especially Housing Authorities and describe your company's successes and challenges.
- 5.2.4.2 Financial Viability:** Financial ability to provide such services to include copies of most recent financial statements, balance sheet and most recent audit if available.
- 5.2.4.3 Management Plan:** Project Manager and staff's expertise as Bond Counsel, include resumes of project manager and key staff that would be assigned to work on this project. Method of assigning work, documenting completed work and procedures for maintaining level of service.
- 5.2.4.4 Approach:** The firm's approach to the work associated with the requested services and how each firm envisions coordinating and integrating with SAHA and In-house Counsel and other SAHA employees that may be involved in the process.
- 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 for each reference:
- 5.2.5.1** The client's name;
 - 5.2.5.2** The client's telephone number and address,
 - 5.2.5.3** Description of services provided to the client, and
 - 5.2.5.4** Date of services
- 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 RFQ. 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 RFQ and any resulting contract. If no joint venture exists or subcontractors will not be utilized, please provide this statement, "NO JOINT VENTURE/

NO SUBCONTRACTORS” “Contractor intends to self perform all work in this RFQ”, in this section.

5.2.7 Tab 7, Section 3 Business Preference: 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 whom Proposer is seeking the preference, verification of total number of full-time employees, names and addresses of low-income residents who are Proposers employees. **Note: If you qualify as a Section 3 Business Concern, your proposal will receive a preference over other proposals 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 plan to assist SAHA in its responsibility to foster the development of small and historically under-utilized business enterprises. Contractor must make a good faith effort to subcontract with S/W/MBE companies. Opportunities to subcontract with S/W/MBE companies should be listed here. **FAILURE TO PROVIDE A S/W/MBE PLAN MAY CAUSE THE RESPONSE TO BE DISQUALIFIED AS NON-RESPONSIVE.**

5.2.9 Tab 9, Section 3 Plan: Proposers are required to submit a utilization plan outlining their efforts to provide job training, employment or contracting opportunities to low and very low income residents to the greatest extent possible. Proposer must include the estimated number of Section 3 new hires expected to result from the issuance of a contract pursuant to this RFQ. **FAILURE TO PROVIDE A SECTION 3 PLAN MAY CAUSE THE RESPONSE TO BE DISQUALIFIED AS NON-RESPONSIVE.**

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. Copies of any licenses held or required shall be included in this tab. 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 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 RFQ).

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 RFQ 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: 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..	Points	Weighted Average	CRITERION DESCRIPTION
1	0-5	35%	Relevant experience: Firm's experience in providing comparable services. Length of time Proposer has been providing the services requested by this RFQ. Firm's experience with public entities, especially Housing Authorities.
2	0-5	15%	Management Plan: Project Manager and staff's expertise as Bond Counsel, include resumes of project manager and key staff that would be assigned to work on this project. Method of assigning work and procedures for maintaining level of service.
3	0-5	15%	Approach: The firm's approach to the work associated with the requested services and how each firm envisions coordinating and integrating with SAHA and In-house Counsel.
4	0-5	15%	Financial Viability: Financial ability to provide such services to include copies of most recent financial statements, balance sheet and most recent audit if available.
5	0-5	20%	Strength of the Section 3 and S/W/MBE plans
		100%	Total Points for Criteria
		MAX. POINTS	HUD SECTION 3
1			Section 3 Preference: A firm may qualify for Section 3 status for up to an additional 5 points.
a		5	Priority I: As detailed in Attachment D
b		4	Priority II: As detailed in Attachment D
c		3	Priority III: As detailed in Attachment D
d		2	Priority IV: As detailed in Attachment D

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.

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 RFQ 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 Proposers 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 RFQ 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:

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. This is required for any vendor that will be using their vehicle to do work on SAHA properties.	\$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 Limit. Workers' Compensation is required for any vendor made up of more than one person. A Waiver of Subrogation in favor of SAHA must be included in the Workers' Compensation policy. SAHA and its Affiliates must be a Certificate Holder.	Statutory \$500,000
Commercial General Liability	Required Limits
This is required for any vendor who will be doing hands on work at SAHA properties. SAHA and its affiliates must be named as an Additional Insured and as the Certificate Holder.	\$1,000,000 per accident \$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 and within budget, he/she is able to deliver the specified items in a timely manner and it is, in the opinion of SAHA, to the bests interests of SAHA to accept the proposal after preferences for Section 3 business concerns are considered. SAHA reserves the right to award to multiple contractors if it is determined to be in the best interest of SAHA.

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 RFQ or contract, the alleged aggrieved protestant must have been involved in the RFQ process in some manner as a prospective proposer (i.e. recipient of the RFQ 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 Procurement Policy & Procedures Page 28 of 29 Last revised 08-05-2009 with Section H. amended as presented to Board 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 (10) 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.

APPEAL OF RFQ NO. (insert exact number of RFQ 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 RFQ 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: Unless otherwise specified within the RFQ documents, the cost in the proposal shall remain firm with no provision for changes during the term of any resulting contract.

9.2 Required Permits and Licenses: Unless otherwise stated in the RFQ documents, all Federal, State or local permits and licenses which may be required to provide the services ensuing from any award of this RFQ, 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 RFQ 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 RFQ.

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 RFQ 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 RFQ 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 RFQ.

9.8 Warranty:

9.8.1 The services provided under the contract shall conform to all information contained within the RFQ 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 (except as to title) arising out of the furnishing of services/goods under the terms of the contract shall not exceed the correcting of the defect(s) in the services/goods provided under the contract, and upon expiration of the warranty period all such liability shall terminate except under the warranty for merchantability and the warranty of fitness for a particular purpose. However, this limitation does not preclude SAHA from seeking indirect, consequential, incidental exemplary, and liquidated damages.
- 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 RFQ documents, the successful proposer may not use any subcontractors to accomplish any portion of the services described within the RFQ 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.
- 9.11 Salaries and Expenses Relating to the Successful Proposers Employees:** Unless otherwise stated within the RFQ 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 RFQ 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 RFQ. 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 RFQ 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 RFQ may be terminated under the following conditions:
- 9.20.1 By mutual consent of both parties, and**
 - 9.20.2 For Termination For Cause:**
 - 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 RFQ 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 RFQ, unless expressly directed otherwise by SAHA in the notice of termination.

9.20.2.1.2 SAHA may terminate any contract resulting from this RFQ 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 RFQ 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 RFQ 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 RFQ, 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, 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** Payment shall be made by SAHA's Fiscal Department within 30 days of the receipt of a properly submitted invoice and SAHA's acceptance of Contractor's work unless SAHA earns the discount for early payment offered by Contractor. One (1) original invoice with supporting documentation shall be promptly submitted, to:

San Antonio Housing Authority
Finance and Accounting
P.O. Box 830428
San Antonio, TX 78283-0428
Or
Email: accountspayable@saha.org

- 9.22.5** 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.
- 9.22.6** If offered by Contractor, SAHA seeks a discount for early payment. SAHA shall only take such a discount if earned.
- 9.22.7** All invoices shall be submitted to SAHA within 60 days of receipt of goods or services. SAHA reserves the right to deny payment if not invoiced within this time frame.

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 RFQ. 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 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).
- 9.28 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).
- 9.29 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) and the wage decision enclosed herein or the latest revision in effect at wage decision lock-in date.
- 9.30 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).
- 9.31 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.

- 9.32 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.
- 9.33 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.
- 9.34 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.).
- 9.35 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.
- 9.36 Age Discrimination Act of 1975 and its amendments:** Requires the Contractor to prohibit discrimination on the basis of age.
- 9.37 Anti-Drug Abuse Act of 1988 (42 U.S.C. 11901 et. seq.) and its amendments:** SAHA requires Contractors to comply with this law.
- 9.38 HUD Information Bulletin 909-23:** Contractors shall comply with the following laws and regulations:
- 9.38.1** Notice of Assistance Regarding Patent and Copyright Infringement
 - 9.38.2** Clean Air and Water Certification
 - 9.38.3** Energy Policy and Conservation Act
- 9.39 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:

- 9.39.1** 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.
- 9.39.2** 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.
- 9.39.3** For data first produced in the performance of this Contract, the contractor may establish, without prior approval of the CA, 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.
- 9.39.4** 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.
- 9.39.5** 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.

9.39.6 The Contractor is responsible for obtaining from its subcontractors all data and rights necessary to fulfill the Contractor's obligations under this Contract.

9.39.7 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.

9.39.7.1 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:

9.39.7.1.1. 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;

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

9.39.7.1.3 Reproduced for safekeeping (archives) or backup purposes;

9.39.7.1.4 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

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

9.40 Additional Information: Each provision of law and each clause, which is required by law to be inserted in this RFQ or any contract, shall be deemed to have been inserted herein, and this RFQ 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.

9.41 Conflicting Conditions: In the even there is a conflict between the documents comprising this RFQ 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 RFQ; 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.

9.42 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 RFQ. 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 and <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 RFQ 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).

9.43 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.

9.44 Force Majeure: Neither SAHA nor Contractor shall be held responsible for delays nor 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.

9.45 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.

9.46 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.

9.47 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.

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ATTACHMENT A

Form of Proposal

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 Managerial Capacity/Financial Viability
_____	Tab 5 Client Information
_____	Tab 6 Subcontractor/Joint Venture Information
_____	Tab 7 Section 3 Business Preference Documentation
_____	Tab 8 Small Business (SWMBE) Utilization Plan
_____	Tab 9 Section 3 Plan
_____	Tab 10 Other Information, Optional

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

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 RFQ as issued by SAHA, in hard copy. Pursuant to all RFQ 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.

Non-Collusive Affidavit: The undersigned party submitting this proposal hereby certifies that such bid is genuine and not collusive and that said bidder has not colluded, conspired, connived or agreed, directly or indirectly, with any bidder or person, to put in a sham bid or to refrain from bidding, and has not in any manner, directly or indirectly sought by agreement or collusion, or communication or conference, with any person, to fix the bid price of affiant or of any other bidder, to fix overhead, profit or cost element of said bid price, or that of any other bidder or to secure any advantage against the SAHA or any person interested in the proposed contract; and that all statements in said bid are true. **Initials** _____

In performing this contract, the contractor(s) shall comply with any and all applicable federal, state or local laws including but not limited to: Occupational Safety & Health, Equal Employment Opportunity, Immigration and Naturalization, The Americans with Disabilities Act, State Tax and Insurance Law, and the Fair Housing Act. **Initials** _____

Signature

Date

Printed Name

Company

E-mail address if available

Phone

Fax

Addenda Acknowledgements

Addendum #1 _____ Date _____

Addendum #2 _____ Date _____

Addendum #3 _____ Date _____

Addendum #4 _____ Date _____

Proposer's Certification

By signing below, Proposer certifies that the following statements are true and correct:

1. He/she has full authority to bind Proposer and that no member of Proposer's organization is disbarred, suspended or otherwise prohibited from contracting with any federal, state or local agency, and the individual or business entity named in this bid is eligible to receive the specified payment and acknowledges that this Contract may be terminated and payment may be withheld if this certification is inaccurate,
2. Proposer proposes to furnish and deliver all items, for which bids were provided herein, as specified in the bid, in accordance with the terms, conditions, and specifications embodied herein, all of which terms, conditions, and specifications are hereby accepted and made a part of this bid, all materials and supplies, which are described on the bid worksheets herein and opposite of which prices have been entered, at the price or prices quoted, subject to valid price reductions as hereafter defined, as ordered for delivery, by SAHA,
3. Proposer agrees that this bid shall remain open and valid for at least a period of 60 days from the date of the Bid Opening, or as may be specified herein, and that this bid shall constitute an offer, which, if accepted by SAHA and subject to the terms and conditions of such acceptance, shall result in a contract between SAHA and the undersigned Proposer,
4. He/she has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with this bid,
5. Proposer, nor the firm, corporation, partnership, or institution represented by the Proposer, or anyone acting for such firm, corporation or institution has violated the antitrust laws of the State of Texas or the Federal Antitrust laws, nor communicated directly or indirectly the bid made to any competitor or any other person engaged in such line of business, and
6. Proposer has not received compensation for participation in the preparation of the specifications for this RFQ, and
7. Has not been debarred, suspended or excluded from receiving Local, State or Federal awards.

SIGNED: _____ Date: _____

(Print Name)

(Print Company Name)

(Company Phone & Fax &)

(Email Address)

Seal if by Corporation

ATTACHMENT B
HUD FORMS & Conflict Of Interest Questionnaire

HUD Form 5369-B
Instructions to Offerors

HUD Form 5369-C
Certifications & Representations

HUD Form 5370C Section I
General Conditions

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. 12/31/2011)

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

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.

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
Company Profile

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 ____ Joint Venture/Partner ____ 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 [Location]; (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) Bidder'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)

PROFILE OF FIRM FORM continued (Attachment C)

(This Form must be fully completed and placed under Tab No. 3 of the "hard copy" tabbed proposal submittal.) (Initial after each of the following where designated)

- (8) Federal Tax ID No.:
(9) City of San Antonio Business License No.:
(10) State of Texas License Type and No.:
(11) Has your firm or any member of your firm been a party to litigation with a public entity?
(12) Has your firm or any member of your firm ever sued or been sued by the San Antonio Housing Authority or its affiliated entities?
(13) Has your firm or any member of your firm ever had a claim brought against because of breach of contract or nonperformance?
(14) Debarred Statement: Has this firm, or any principal(s) ever been debarred from providing any services by the Federal Government, any state government, the State of Texas, or any local government agency within or without the State of Texas?
(15) Disclosure Statement: Does this firm or any principals thereof have any current, past personal or professional relationship with any Commissioner or Officer of the HA?
(16) Non-Collusive Affidavit: The undersigned party submitting this proposal hereby certifies that such proposal is genuine and not collusive and that said Offerer has not colluded, conspired, connived or agreed, directly or indirectly, with any Offerer or person, to put in a sham proposal or to refrain from proposing, and has not in any manner, directly or indirectly sought by agreement or collusion, or communication or conference, with any person, to fix the proposal price of affiant or of any other Offerer, to fix overhead, profit or cost element of said proposal price, or that of any other Offerer or to secure any advantage against the SAHA or any person interested in the proposed contract; and that all statements in said proposal are true.
(17) Verification Statement: The undersigned Offerer hereby states that by completing and submitting this form he/she is verifying that all information provided herein is, to the best of his/her knowledge, true and accurate, and agrees that if the SAHA discovers that any information entered herein is false, that shall entitle the SAHA to not consider nor make award or to cancel any award with the undersigned party.
(18) In performing this contract, the contractor(s) shall comply with any and all applicable federal, state or local laws including but not limited to: Occupational Safety & Health, Equal Employment Opportunity, Immigration and Naturalization, The Americans with Disabilities Act, State Tax and Insurance Law, and the Fair Housing Act.

Signature Date Printed Name Company Seal if by Corporation

Company Profile

Company Name: _____

Headquarters Location: _____

Field Office Locations: _____

Business Specialty or Focus: _____

Number of Full Time Staff: _____

Founding Date and Brief History: _____

Texas Projects and/or Clients: _____
(past & current)

Previous Housing Authority Experience: YES NO

List the Authorities: _____

ATTACHMENT D

Section 3 Guidelines and Forms

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.

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 (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.

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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.

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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:

▪ **1st 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.

▪ **2nd 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.

▪ **3rd Priority – Category 3 Section 3 Businesses**

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

▪ **4th 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
WHEN THE LOWEST RESPONSIVE BID IS:	
At least \$100,000, but less than \$200,000	9% of that bid or \$16,000
At least \$200,000, but less than \$300,000	8% of that bid or \$21,000
At least \$300,000, but less than \$400,000	7% of that bid or \$24,000
At least \$400,000, but less than \$500,000	6% of that bid or \$25,000
At least \$500,000, but less than \$1 Million	5% of that bid or \$40,000
At least \$1 Million, but less than \$2 Million	4% of that bid or \$60,000
At least \$2 Million, but less than \$4 Million	3% of that bid or \$80,000
At least \$4 Million, but less than \$7 Million	2% of that bid or \$105,000
\$7 Million or more	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:

- 1st Priority – Category 1 Section 3 Residents
Residents of the development for which work is performed.
- 2nd Priority – Category 2 Section 3 Residents
Residents of other Public Housing developments outside of the development(s) where the work is performed.
- 3rd 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.
- 4th 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		A.	B.	C.	D.	E.	F.						
Item No.	Name	Street Address	City	State	Zip Code												
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 – (1st qtr Oct, Nov, Dec) (2nd qtr. Jan, Feb, Mar) (3rd qtr. Apr, May, Jun) (4th 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 2010 Income Limits)	\$32,400	\$37,000	\$41,650	\$46,250	\$49,950	\$53,650	\$57,350	\$61,050

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: _____