



FORT WORTH HOUSING AUTHORITY
"Investing in the Community"

Fort Worth Housing Authority
Request for Proposals

**RETIREMENT PLAN THIRD PARTY
ADMINISTRATOR**

Due October 29, 2015 @ 11:00 a.m.





FORT WORTH HOUSING AUTHORITY
"Investing in the Community"

RFP for RETIREMENT PLAN THIRD PARTY ADMINISTRATOR

The Fort Worth Housing Authority (FWHA) is currently accepting proposals for Retirement Plan Third Party Administrator.

Submissions shall consist of one (1) USB/Flash Drive or Compact Disc (CD) and one (1) Bound Original proposal and FIVE (5) Bound Copies of the proposal containing all materials as listed in RFP.

FWHA reserves the right to reject any or all proposals. MBE/WBE firms are encouraged to submit proposals.

All questions for the RFP must be submitted in writing, and e-mailed to Kelvin Noble at rfp@ftwha.org or knoble@ftwha.org or faxed to 817-333-3592 no later than, October 19, 2015 at 11:00 a.m. Central Standard Time (C.S.T.)

PRE-PROPOSAL MEETING: Oct. 14, 2015 at 11:00 a.m. C.S.T. at FWHA
300 S. Beach Street, Conference Room, Fort
Worth, TX 76105

PROPOSAL DUE DATE/TIME: Oct. 29, 2015 at 11:00 a.m. C.S.T. at FWHA, 300
S. Beach Street, Fort Worth, TX 76105

*******SOLICITATION DOCUMENTS ARE AVAILABLE ON LINE AT**

www.ftwha.org

SOLICITATION DOCUMENTS ARE ALSO AVAILABLE FOR PICK-UP ON **Oct. 5, 2015** BETWEEN 8:00 AM AND 4:30 PM MONDAY THRU FRIDAY AT THE FOLLOWING LOCATION:

**Fort Worth Housing Authority
Procurement Division
300 South Beach Street
Fort Worth, TX 76105
(817) 535-6877**

TABLE OF CONTENTS

REQUEST FOR PROPOSALS	2
I. INTRODUCTION.....	4
II. PROPOSAL SUBMISSION PROCEDURES.....	4
III. SCOPE OF SERVICES.....	6
IV. EVALUATION/SELECTION CRITERIA.....	8
V. GENERAL CONDITIONS OF THE RFP.....	9

Exhibit A:

- a) Instructions to Offerors Non-Construction (HUD-5369-B)
- b) Certifications and Representations of Offerors - Non Construction (HUD 5369-C)
- c) General Conditions for Non-Construction Contracts (HUD-5370-C)

Exhibit B:

- a) Business References
- b) Non-Collusive Affidavit
- c) Conflict of Interest Questionnaire
- d) Profile of Firm
- e) Section 3 Guidelines/Forms
- f) M/WBE Guidelines
- g) Equal Employment Opportunity

Exhibit C:

- a) Sample Contract for Services

I. INTRODUCTION

The Housing Authority of the City of Fort Worth, Texas ("FWHA") hereby invites qualified and experienced firms to submit proposals for **FWHA Retirement Plan Third Party Administrator** as described in the scope of services that follows.

FWHA develops, owns and operates quality affordable and accessible housing that provides assistance to citizens of Fort Worth utilizing various federal, state and local programs. Currently, FWHA owns **1,002** public housing units, **2,998** affordable housing units, **525** market-rate units; administers more than **6,000** housing vouchers.

The Housing Authority intends to enter into a 3 year contract with an option to extend the contract for an additional one (1) year period.

II. PROPOSAL SUBMISSION PROCEDURES

Proposals must be submitted no later than **11:00 a.m. Local Time, Thursday, October 29, 2015.**

Any Proposals received after the specified date and time will not be considered. Proposals must be in the specified office of FWHA on or before the above specified date and time. If you choose to mail your Proposals, it must arrive by the specified date and time, regardless of the postmark date.

A. Information Required in the Proposal

In evaluating a provider for Third Party Administrator (TPA), it is important for the following information relevant to the company be provided. Additional information not listed may be included.

1. Name of company, address, and contact information of your firm.
2. Background and history including whether or not provider is a subsidiary or affiliate of another company.
3. Demonstrate the credentials of the firm and of the particular staff to be assigned to this engagement.
4. Complete description and scope of services offered.
5. Current or pending litigation within last five years relating to services being proposed.
6. Amount and types of insurance covering errors and omissions, employee dishonesty, and other risks typically associated with services being rendered.
7. Privacy policy with respect to sharing information with third parties.
8. References from at least five current/previous clients.

Respondents must submit One (1) USB/Flash Drive or Compact Disc (CD) and One (1) bound Original and 5 bound Copies (a total of 6) of the complete submission package. The submission package must be received by the Fort Worth Housing Authority no later than **11:00 a.m. Local time, Thursday, October 29, 2015** at the following location:

**Fort Worth Housing Authority
300 South Beach Street
Fort Worth, TX 76105
Attn: Kelvin Noble**

B. Request for Information

Respondents desiring any explanation or further information regarding the solicitation must submit an e-mail request no later than **11:00 a.m. Local Time, Monday, October 19, 2015**. The request must be submitted in writing to Kelvin Noble at the following email addresses: rfp@ftwha.org or knoble@ftwha.org. Any clarification and or information will be furnished promptly as a written addendum to the RFP and posted on FWHA website www.ftwha.org.

C. Evaluation Process

A selection committee composed of FWHA staff will review proposals in accordance with this RFP and will select the firm most advantageous and supportive of the agency's needs. The firm must demonstrate it will create a successful, proactive and strategic business relationship with the FWHA. The selection committee may at its discretion request interviews with respondents to discuss specific aspects and clarifications of their proposal.

D. Anticipated Schedule of Events

The anticipated schedule for the RFP and contract approval is as follows:

Event	Date
RFP available for distribution	October 5, 2015
Pre-proposal Conference	October 14, 2015
Deadline for receipt of written questions	October 19, 2015
Response to written questions	October 21, 2015
Proposal Due Date	October 29, 2015
Estimated Contract Award Date	To be determined

The Fort Worth Housing Authority reserves the right at its sole discretion to amend any or all of the dates associated with the anticipated schedule of events.

III. SCOPE OF SERVICES – Retirement Plan Third Party Administrator

A. Scope of Services

The Fort Worth Housing Authority (FWHA) seeks a retirement plan third party administrator (TPA) to provide administration, record keeping, education, enrollment and investment management services for the FWHA and its employees, 401(a) and 403(b) retirement accounts including but not limited to:

Services performed under this contract shall be subject to review by FWHA representatives. This section only outlines the services requested.

1. The TPA will ensure the plan's compliance with all IRS, ERISA, DOL and other government agencies.
2. The TPA will be responsible for creating and maintaining plan documents and for preparing notices.
3. The TPA will provide one point of contact service.
4. The TPA will prepare plan sponsor and plan participant benefit statements.
5. The TPA will conduct open enrollment and educational programs at least annually.
6. The TPA will assist in processing all plan distributions.
7. The TPA will prepare loan packages for plan participants.
8. The TPA will conduct all annual plans testing to ensure compliance with IRS non-discrimination requirements.
9. The TPA will provide testing results and recommendations to the Trustees.
10. The TPA will monitor participant contribution limits.

11. The TPA will ensure the proper allocation of funds between the plan sponsor and the Record Keeper as well as any forfeiture funds.
12. The TPA will calculate participant vested percentages.
13. The TPA will prepare all annual returns required by the IRS, DOL or other governmental agencies including Form 5500 and 1099R.
14. The TPA will provide copies of all annual filings to FWHA's accounting department.
15. The TPA will assist FWHA in the RFP process should it be determined that a new Record Keeper needs to be retained.
16. The TPA will perform quarterly audits on the fund offerings in the retirement plan, or secure a Plan Advisor to do so, and make suggestions to the Trustees for any corrective actions.
17. The TPA will supply representation to ERISA for voluntary compliance or audit support as needed.

B. Compensation

Consultant will be compensated by the FWHA for services satisfactorily performed in accordance with the requirements of the scope of work. As such, the consultant and its officers, agents and employees shall not accept or receive any commissions or payments from insurance companies, agents or affiliates as a result or in relation to any insurance contract awarded by the FWHA for insurance coverage as contemplated herein.

IV. EVALUATION/SELECTION CRITERIA

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

CRITERIA	POINTS
<u>EXPERIENCE / QUALIFICATIONS</u> <ul style="list-style-type: none">a. Describe your firm's history, size, location and organizational structure.b. Describe your firm's business relationship philosophy, areas of expertise, and what distinguishes you from other firms in the industry.c. How does your firm provide expertise in the areas of retirement plan administration for clients?d. Explain how your firm monitors regulatory and legislative developments at the state and federal level and how do you communicate the information to clients.e. Provide the names of the team members who will be servicing FWHA. Include a resume that highlights each member's area of expertise and qualifications to provide services.	25
<u>Past Performance on Similar Assignments</u> <ul style="list-style-type: none">a. The respondent must demonstrate a proven track record in providing retirement plan administration to housing authorities, governmental agencies, or other relevant assignments.b. Provide a list of recent relevant experience of key personnel and their Responsibilities on similar projects.	20
<u>Customer Service Plan</u> <ul style="list-style-type: none">a. Describe your strategy for servicing the FWHA's needs related to retirement plan administration.b. Describe in detail your firm's approach, timeline and initial handling of ongoing communication and education programs (including printed material, visits, training, etc.).c. Provide sample utilization reports for different retirement plan benefits; include projections and/or trends.	25
<u>Name and number of Record Keepers TPA works with: please provide a list</u>	10
<u>Name and number of Financial Advisors TPA work with: please provide a list</u>	10

<p><u>Fee Proposal/Cost</u></p> <p><u>Con't</u></p> <p>a. All submissions must include a <u>detailed</u> fee proposal in a format that relates directly to the Scope of Services in this RFP. Fee proposals shall include all direct and indirect cost for the entire project. Fee proposals are subject to negotiation.</p>	<p>10</p>
--	------------------

Interviews, if desired by FWHA, will be used to identify the top ranking firm(s).

V. GENERAL CONDITIONS OF THE RFP

A. General Conditions

1. FWHA reserves the right to accept or reject any and all Proposals submitted, either in whole or in whole or in part, with or without cause; to waive any informalities of any Proposals; to cancel this RFP; and, to make the award in the best interest of FWHA and its affiliates.
2. FWHA reserves the right to request additional information, if needed, from prospective contractors.
3. In the event that it becomes necessary for FWHA to revise any part of this RFP, revisions will be provided to all prospective contractors who picked up or were delivered the initial RFP, providing a name, address, telephone number, fax number, and e-mail address have been provided to FWHA.
4. All Proposals submitted in response to this RFP will be considered public information and may be made available to the general public (including news media) unless confidential and/or proprietary information is submitted under separate cover and is clearly designated as such.
5. The Respondent shall provide a presentation, if requested to do so by FWHA.
6. The Respondent affirms that he/she is of lawful age and that no other person, firm, partnership, or corporation has any interest in this submittal or in the contract proposed to be entered into.
7. The Respondent affirms that its Proposal is made without any understanding, agreement or connection with any other person, firm, partnership or corporation making a submittal for the same purpose, and is in all respects fair and without collusion or fraud.
8. The Respondent has carefully read the provisions, terms, and conditions of the Proposals document and does hereby agree to be bound thereby.
9. FWHA retains the right to negotiate with the selected firm(s).
10. Additional services and/or service adjustments may be added or deleted during the life of any contract awarded hereunder as mutually agreed upon in writing between FWHA and respondent.

11. Respondent must meet FWHA's insurance and indemnification requirements set forth herein in the attached sample contract.
12. The respondent will not offer any gratuity, favor, or anything of monetary value to any officials or employee of FWHA for the purpose of influencing consideration of a response to this Proposal.

B. Acceptance of RFP and Contract Terms

Respondent's submission of a Proposal in response to the RFP shall constitute acceptance by the Respondent of the terms and conditions of this RFP. In the event that the Respondent's proposal is accepted for contract award, the Respondent agrees to enter into a contract with FWHA in a form substantially similar to the contract form appended hereto as Exhibit C.

C. Contract Award

Subject to the rights reserved in this RFP, FWHA will award the contract by written notice to the selected Respondent (the "Contractor"). The award of the contract is subject to the approval of the FWHA Board of Commissioners and/or the FWHA President. and it shall be conditioned on the successful negotiation of revisions, if any, to the proposal, recommended as part of the evaluation of proposals.

A contract shall be awarded in accordance with the terms and conditions of this RFP to the Respondent whose proposals is most advantageous to the FWHA considering price, technical and other factors as specified in this RFP, FWHA reserves the right to negotiate and award any element of this RFP, to reject any or all proposals or to waive any minor irregularities or technicalities in proposals received as in the best interest of FWHA.

D. No Warranty

Respondents are required to examine the RFP, scope of services, and instructions pertaining to the services requested. Failure to do so will be at the Respondent's own risk. It is assumed that the Respondent has made full investigation as to be fully informed as to the extent and character of the services requested. No warranty or representation is made or implied as the information contained in this RFP.

E. Expense of RFP Submission

All expenses incurred in the preparation and submission of the proposals to FWHA in response to this RFP shall be borne by the Respondent.

EXHIBIT A

- a) HUD 5369 - B
- b) HUD 5369 - C
- c) HUD 5370 - C

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 counter offer 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:]

Please note that additional conditions, specifications and instructions pertaining to this RFP are contained within the RFP document issued.

Certifications and Representations of Offerors

Non-Construction Contract

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

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

1. Contingent Fee Representation and Agreement

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

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

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

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

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

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

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

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

(Check the block applicable to you)

- | | |
|---|---|
| <input type="checkbox"/> 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 Exhibit A
Office of Labor Relations
OMB Approval No. 2577-0157 (exp. 01/31/2014)

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.**

- (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.

~~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

proposal submitted before final payment of the contract.

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 Labor 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.

EXHIBIT B

- a) Business References
- b) Non-Collusive Affidavit
- c) Conflict of Interest Questionnaire
- d) Profile of Firm
- e) Section 3 Guidelines/Forms
- f) M/WBE Guidelines
- g) Equal Employment Report

BUSINESS REFERENCES

Please provide a minimum of five (5) business references:

1. Company Name: _____
Address: _____
City, State, Zip: _____
Contact Person & E-Mail: _____
Phone Number: _____
2. Company Name: _____
Address: _____
City, State, Zip: _____
Contact Person & E-Mail: _____
3. Company Name: _____
Address: _____
City, State, Zip: _____
Contact Person & E-Mail: _____
4. Company Name: _____
Address: _____
City, State, Zip: _____
Contact Person & E-Mail: _____
5. Company Name: _____
Address: _____
City, State, Zip: _____
Contact Person & E-Mail: _____

FORM OF NON-COLLUSIVE AFFIDAVIT

(PRIME BIDDER)

State of _____

County _____, being first duly sworn deposes and says:

That he is _____, the party making the foregoing proposal or bid, and attests to the following:

- (1) That affiant employed no person, confirmation, firm, association, or other organization, either directly or indirectly, to secure the public contract under which he received payment, other than persons regularly employed by the Affiant whose services in connection with the construction of the public building or project in securing the public contract were in the regular course of their duties for Affiant; and
- (2) That no part of the contract price received by Affiant was paid to any person, corporation, firm, association or other organization for soliciting the contract, other than the payment of their normal compensation to persons regularly employed by the Affiant whose services in connection with the construction of the public building or project were in the regular course of their duties for Affiant.
- (3) That such proposal or bid is genuine and not collusive or sham; 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 try 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, or to fix any overhead, profit, or cost element of said bid price, or of that of any other Bidder, or to secure any advantage against the Housing Authority or any person interested in the proposed contract; and that all statements in said proposal or bid are true.

Signature*

*Bidder if the Bidder is an individual; all partners if Bidder is a partnership; officer if the Bidder is a corporation.

SUBSCRIBED AND SWORN TO before me, this the _____ day of _____, 20_____.

NOTARY PUBLIC

My Commission Expires: 20_____

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 in accordance with Chapter 176, Local Government Code by a person who has a business relationship as defined by Section 176.00 (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 record 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 update 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 relationship with the local government officer named in this section.

4.

_____ Signature of person doing business with the governmental entity

_____ Date

Note: A completed Profile of Firm Form must be submitted for each subcontractor.

Proposed Subcontractors					
Item	Company Name	Address	Phone	Specialty	W/M/BE
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					
11					
12					
13					
14					
15					
16					
17					
18					
19					
20					
I understand and agree that if awarded a contract as a result of this solicitation that the use of the above subcontractors is subject to the approval of FWHA and becomes a part of the contract. I further understand that any change in subcontractors also requires the pre-approval of FWHA.			_____ (Signature) _____ (Printed Name & Title)		

Note: A completed Profile of Firm Form must be submitted for each subcontractor

PROFILE OF FIRM FORM (Page 1 of 2)

(This Form must be fully completed by all Proposers and Subcontractors)

(1) Prime ___ Joint Venture/Partner ___ Sub-contractor ___ (This form shall be completed by and for each).

(2) Name of Firm: _____ Telephone: _____ Fax: _____

(3) Street Address, City, State, Zip: _____

(4) Identify Principals/Partners in Firm

NAME	TITLE	% OF OWNERSHIP

(5) Please indicate the operating structure of your company.

- Publicly Held Corporation
 Privately Held Corporation
 Government Agency
 Non-Profit Organization
 Partnership
 Sole Proprietorship

(6) Respondent'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:

Minority- (MBE), or Woman-Owned (WBE) Business Enterprises qualify by virtue of 51% or more Ownership and active management by one or more of the following:

- African American _____%
 **Native American _____%
 Hispanic American _____%
 Asian/Pacific American _____%
 Hasidic Jew _____%
 Asian/Indian American _____%

- Woman-Owned (MBE)
 Woman-Owned (Caucasian)
 Disabled Veteran
 Caucasian American (Male)
 Other (Specify):

(7) Is the business 51% or more owned by a public housing resident? ___ Yes ___ No. If yes, provide name and address of the public housing facility:

Facility Name: _____

Facility Address: _____ City: _____

SWMBE Certification Number: _____

Certification Agency: _____

(Note: A CERTIFICATION/NUMBER IS NOT REQUIRED – ENTER IF AVAILABLE)

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 Fort Worth Housing Authority (FWHA) 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 FWHA Residents and other low- and very low-income persons.

General Policy Statement:

It is the declared policy of the Fort Worth Housing Authority (FWHA) 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 FWHA properties and other qualified low- and very low income persons residing within the geographical boundaries of City of Fort Worth. 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 FWHA. FWHA recognizes its obligation as well as the obligation of potential contractors, subcontractors, to develop practical steps to achieve the goals of providing meaningful, full time employment opportunity, as well as business opportunities to FWHA 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 FWHA 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 FWHA's Contracting Officer, through official resolution, shall examine and consider a contractor/vendor's success in providing employment and business opportunities to FWHA 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, FWHA 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 services 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 Contracts 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 3 Business Concerns. Efforts to employ Section 3 Residents to the greatest extent feasible should be made at all job levels.

FWHA 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, FWHA 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.

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, FWHA 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 acknowledgement 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 FWHA 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 assist 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 deployment, 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 manage corporation, resident council, or cooperative association.

Contractor means any entity which contract 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.

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 24CFR 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. 1701 u).

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. 1437 a (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 cost or unusually high 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. 1437 a (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’s 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 low family incomes.

3. A person seeking the training and employment preference provided evidence by section 3 bears the responsibility of providing evidence (if requested) that the person 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 of 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 concerns, 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)

FWHA 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 Fort Worth 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 Fort Worth.

- **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 subcontract shall submit evidence to FWHA, 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 less than \$100,000	10% of that bid or \$9,000
WHEN THE LOWEST RESPONSIVE BID:	
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)

FWHA, 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 Fort Worth who are participants in HUD Youth-build programs being carried out in the City.
- 4th Priority—Category 4 Section 3 residents Other Section 3 Residents.

Certification Procedure:

FWHA 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. Any Individual or business concern seeking Section 3 preferences in the awarding of the 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 FWHA 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 FWHA prior to the submission of bids or along

with the bid Certification 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:

FWHA 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 FWHA'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 FWHA'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 FWHA, 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.



**FWHA FORM S3-1
SECTION 3 COMPLIANCE PLAN**

All FWHA Contractors for Section 3 covered contracts must submit this form.

Section 3 requires that, to the greatest extent feasible, employment and other economic opportunities generated by HUD funds be directed to low-income residents, particularly those who are recipients of government assistance for housing, and to business concerns which provide economic opportunities to low-income persons.

We provide the following Section 3 Compliance Plan to outline how we will meet the requirements of Section 3.

Part I: Current Status as a Section 3 Business Concern (select one)

- We are a Section 3 business concern and are submitting [FWHA Form S3-2](#) and supporting documentation with our submission.
- We are not a Section 3 business concern. **Part II: Subcontracting (select one)**
- We commit to subcontracting at least 10% of the total dollar amount of this contract (for building trade contracts), or 3% of the total dollar amount of this contract (for non-building trade contracts), to qualifying Section 3 business concerns. [FWHA Forms S3-3](#) is attached.
- We do not intend to subcontract the minimum threshold percentage of 10% of the total dollar amount of this contract (for building trade contracts), or 3% of the total dollar amount of this contract (for non- building trade contracts), to qualifying Section 3 business concerns.

Part III: Hiring (select one)

- We anticipate needing to hire new employees to complete this project and commit that 30% of the new hires will be Section 3 residents. Attached is [FWHA Form S3-4](#) outlining the specific hiring needs.
- We anticipate needing to hire new employees to complete this project, but do not commit to hiring Section 3 residents. Attached is [FWHA Form S3-4](#) outlining our specific hiring needs.
- We do not anticipate needing any new hires to complete this project. **Part IV: Efforts That Will be Taken to Satisfy the Section 3 Requirements**

Review Section I of [Appendix to 24 CFR 135](#). Attach a narrative description outlining which, if any, of the “Example Efforts to Offer Training and Employment Opportunities to Section 3 Residents” will be used to achieve the Section 3 requirements. The narrative must include a description of how each committed action will be implemented (for example, if flyers will be posted, discuss where they will be posted, or if agencies will be contacted, outline which agencies will be contacted). FWHA is not accepting financial contributions to a Section 3 fund in lieu of efforts to comply with Section 3 requirements.

The undersigned company official does swear or affirm that the information on this form is true and correct to the best of his or her knowledge and there is no willful intent to mislead or commit fraud.

Signature _____ Company _____

Date



**FWHA FORM S3-2
CERTIFICATION FOR SECTION 3 BUSINESS CONCERNS**

Name of Business (the "Company") _____

Address of Business _____

Type of Business: Corporation Partnership
(Select one) Sole Proprietorship Joint Venture

Select the Section 3 business concern type you are claiming (A, B, or C) and attach the required supporting documentation as follows:

A. Section 3 resident-owned enterprise (51 percent or more owned by Section 3 residents)

- I am a FWHA public housing or Section 8 HCV resident; or
- Copy of evidence of participation in a public assistance program; or
- Other evidence:

Attach the following documentation for business entity type, as applicable:

- Copy of Articles of Incorporation
- Partnership Agreement
- Assumed Business Name Certificate
- List of owners/stockholders and percentage of ownership of each
- Additional documentation, as necessary

B. Section 3 status due to at least 30 percent of the Company's permanent, full-time employees are currently Section 3 residents, or were Section 3 eligible residents within 3 years of their date of first employment with the Company

- List of all current full-time employees denoting each employee's hire date, and whether they qualify for Section 3 status, via [FWHA Form S3-5](#), Existing Employee List. Note: the Company must maintain a copy of [FWHA Form S3-6](#) for each Section 3 resident employee in their files.

C. Section 3 status by subcontracting more than 25 percent of the dollar amount of the contract to qualified Section 3 business concerns

- List of subcontracted Section 3 business (es) and subcontract amount(s) via [FWHA Form S3-3](#), Subcontracting Plan. Note: Contractors must collect a copy of this form, [FWHA Form S3-2](#), Certification for Section 3 Business Concerns, from each subcontractor claiming to be a Section 3 business concern, as well as the required supporting documentation, and retain this information in their files.

Under penalty of perjury, I certify that I am authorized to provide the above information. I attest to the truthfulness of my statements and agree to provide, upon request, additional documents to verify the information I have provided above.

Signature _____

Print Name _____ Date _____



**FWHA FORM S3-3
SUBCONTRACTING PLAN**

Total Dollar Value of contract: \$ _____

Total Approximate Dollar Value of all subcontracts: \$ _____

List All Subcontractors and Briefly Describe Work They Will Perform	Approximate Dollar Value	Construction (C) or Non-Construction (NC)	Section 3 Business Concern (Y/N)
1.	\$		
2.	\$		
3.	\$		
4.	\$		
5.	\$		
6.	\$		

HUD's [Section 3 Clause](#) must be included in all contracts with subcontractors. Contractors must also collect [FWHA Form S3-2](#), Certification for Section 3 Business Concerns, from each subcontractor claiming to be a Section 3 business concern, as well as the required supporting documentation, and retain this information in their files.

The undersigned company official does swear or affirm that the information on this form is true and correct to the best of his or her knowledge and there is no willful intent to mislead or commit fraud.

Signature

Company/Contractor

Date



**FWHA FORM S3-4
HIRING PLAN**

Project Name _____ Contractor/Subcontractor Name _____ Date _____

Instructions: In the chart below specify **all** new positions that will be needed for this project.

JOB CATEGORY/TITLE	Total # of Expected NEW HIRES and TRAINEES	Total # of Expected SECTION 3 NEW HIRES	Total # of New SECTION 3 TRAINEES	Expected HIRE DATE(S) of all new hires and trainees (note: there can be more than one date in each category)	Anticipated LENGTH OF HIRE (months)
Professionals:					
Technicians:					
Office/Clerical:					
Construction Work by Trade/Title					
Trade:					
Trade:					
Trade:					
Other:					
Other:					
TOTALS:					

The undersigned company official does swear or affirm that the information on this form is true and correct to the best of his or her knowledge and there is no willful intent to mislead or commit fraud. Additionally, the undersigned confirms that a [FWHA Form S3-6](#) will be collected from each Section 3 new hire or trainee and will be retained on file.

Signature

Title

Date



**FWHA FORM S3-6
CERTIFICATION FOR SECTION 3 RESIDENTS**

All residents of FWHA public housing developments and all of FWHA's Section 8 Housing Choice Voucher (HCV) holders qualify as Section 3 residents. Additionally, individuals residing in the [Fort Worth-Arlington MSA](#) who meet the **Low-Income** limits set forth below can qualify for Section 3 status.

2015 Income Limits	
Number in Household	Low Income (80%)
1 person	\$ 41,000
2 person	\$ 46,850
3 person	\$ 52,700
4 person	\$ 58,550
5 person	\$ 63,250
6 person	\$ 67,950
7 person	\$ 72,650
8 person	\$ 77,300

I am a FWHA public housing resident or Section 8 HCV holder (mark one): **YES** **NO**

If you are not a FWHA public housing resident or HCV holder, does your household fall at or below the applicable Low Income Limit outlined in the chart above (mark one)?: **YES** **NO**

The total number of members in my household = _____

My household's total annual income = \$ _____

My permanent address is: _____

I understand that the information above relating to the size and annual income of my family may require verification. I agree to provide documents upon request verifying this information and I authorize my employer to release information required for HUD or FWHA to verify my status as a Section 3 resident.

Under penalty of perjury, I certify that I have voluntarily provided the above information. I attest to the truthfulness of my statements fully understanding that this information is subject to verification by the appropriate agencies.

Signature _____

Print Name _____ Date _____

ATTACHMENT

M/WBE PARTICIPATION

M/WBE PARTICIPATION: The Respondent agrees to use his/her best efforts to subcontract with minority business enterprises and/or women business enterprises (herein called M/WBE) certified as such or recognized by Fort Worth Housing Authority as a certified M/WBE. Respondent shall make a good faith effort to subcontract a sufficient dollar amount with M/WBEs to ensure that a minimum of 20 percent of the final contract dollars are expended on one or more M/WBE. All adjustments that cause the contract price to increase will also increase the total amount that the Respondent must make a good faith effort to expend on M/WBEs.

USING BEST EFFORTS TO FULFILL M/WBE REQUIREMENT: In the event Fort Worth Housing Authority has a reasonable belief that Respondent will not use his/her its best efforts to meet the 20 percent M/WBE participation goal, Fort Worth Housing Authority reserves the right to pull work from the contract. Best efforts may be established by a showing that Respondent has contacted and solicited bids/quotes from subcontractors and worked with the Housing Authority to seek assistance in identifying M/WBEs.

NOTIFICATION OF M/WBE PARTICIPATION: Respondent agrees to promptly complete and return all M/WBE Confirmation of Participation and M/WBE Confirmation of Payment forms utilized by Fort Worth Housing Authority to confirm M/WBE subcontracting by submitting copies of checks made payable to the respective M/WBE subcontractor(s) signed by the respondent.

RESPONDENT

DATE

Note: This form must bear a signature.

EQUAL EMPLOYMENT OPPORTUNITY – EMPLOYER INFORMATION REPORT

Name of Firm: _____
 Address: _____
 City, State, ZIP: _____
 Telephone: _____

JOB CATEGORIES	OVERALL TOTALS	MALE					FEMALE				
		WHITE (Not of Hispanic Origin)	BLACK (Not of Hispanic Origin)	HISPANIC	ASIAN OR PACIFIC ISLANDER	AMERICAN INDIAN OR ALASKAN NATIVE	WHITE (Not of Hispanic Origin)	BLACK (Not of Hispanic Origin)	HISPANIC	ASIAN OR PACIFIC ISLANDER	AMERICAN INDIAN OR ALASKAN NATIVE
Officials and Managers											
Professionals											
Technicians											
Sales Workers											
Office and Clericals											
Craft Workers (Skilled)											
Operatives (Semi-Skilled)											
Laborers											
Service Workers											
TOTAL											

Signature: _____

Date: _____

EXHIBIT C

- a) Sample Contract for Services

FWHA CONTRACT FOR SERVICES

In consideration of the mutual promise and covenants herein contained, INSERT NAME AND ADDRESS OF CONTRACTOR, (hereinafter referred to as the "Contractor") and The Housing Authority of the City of Fort Worth, Texas, 1201 E. 13th Street, Fort Worth, Texas 76102 (hereinafter referred to as the "FWHA") agree as follows:

1. SERVICES

Contractor shall furnish to FWHA the services attached hereto as Exhibit A and made a part hereof for all purposes, (hereinafter referred to collectively as the "Services"). Additional services and/or service adjustments may be added to or deleted during the life of this Contract as mutually agreed upon in writing between FWHA and Contractor. If it becomes necessary to revise the specifications after this Contract is executed, a written "Change Order" or a "Modification to the Contract" shall be executed by the parties and become part of this Contract. The Contractor shall perform the Services as expeditiously as is consistent with the requirements of FWHA; it is understood that time is of the essence for performance of the Services.

2. CHARGES

In consideration for the Services provided pursuant to this Contract, FWHA agrees to pay Contractor an amount not to exceed INSERT AMOUNT OF CONTRACT LIMIT per year, in accordance with the Proposal attached hereto as Exhibit B and made a part hereof for all purposes. In no event shall FWHA pay for goods or services not actually delivered.

FWHA shall pay the approved amounts of Contractor's invoices within forty-five (45) days after receipt of invoice in proper form. Payment will be contingent up FWHA's review of the invoice and determination that the Services described in the invoice are within the description of the Services under this Contract. If FWHA, in good faith, disputes and does not approve an item billed, FWHA will notify the Contractor of the item or portion of an item disputed and will withhold payment thereof until settlement of the dispute. The right of FWHA to withhold such payments will be in addition to, and not in any way in lieu of, any other right of FWHA hereunder, including the right to raise disputes for the first time after audit. All payments shall be on account only and are subject to adjustment after audit.

3. TERM

Services provided by Contractor hereunder shall commence on INSERT DATE, MONTH AND YEAR and shall end on INSERT DATE, MONTH AND YEAR, unless terminated earlier as set forth herein. FWHA MAY EXERCISE ITS SOLE OPTION TO EXTEND THIS CONTRACT FOR ANOTHER TWO YEARS. Contractor acknowledges that FWHA is a recipient of Federal Funds and that payments made under this Contract will be made with Federal appropriations. Accordingly, if FWHA does not receive its full appropriation, it may terminate the Contract under Section 4, below.

4. TERMINATION

FWHA shall have the right to terminate the Contract, with or without cause, by giving written notice by certified mail to the other party at least THIRTY (30) days prior to the date the contract is to be terminated.

5. NO DUTY EXCEPT AS EXPRESSLY STATED

The Contractor shall perform all Services in a careful and workmanlike manner and in accordance with the highest nationally accepted standards of care, skill and diligence applicable to the Services. Otherwise, there shall be no duty owed by either party to this Contract except those that are expressly stated herein.

6. COMPLIANCE WITH LAW

The Contractor shall give all notices and comply with all federal, state, and local laws, ordinances, rules and regulations and the lawful orders of any public authority bearing on the performance of the Services. If the Contractor observes that any provision of the Contract is at variance with any applicable law, statute, building code or regulation, the Contractor shall notify FWHA in writing promptly, and the necessary changes shall be accomplished by appropriate written modification of the Contract. If the Contractor performs any work knowing it to be contrary to such laws, ordinances, rules or regulations, the Contractor shall assume full responsibility and shall bear all cost and liability attributable thereto.

This Contract and the rights and obligations of the parties thereto shall be interpreted, construed and enforced in accordance with the laws of the State of Texas.

By execution of this Contract, the Contractor warrants and covenants to FWHA that all Services will be performed in accordance with all applicable federal, state, county and city codes, rules and ordinances, including, but not limited to, the federal Clean Air Act and the Occupational Health and Safety Act, the Texas Industrial Safety and Health Act, and the Workers Right to Know Law.

Furthermore, the Contractor shall obtain and maintain in full force and effect during the term of this Contract, such licensing and/or permits as may be required by federal, state and local authorities.

7. INSURANCE

The following shall apply as indicated:

- (a) Contractor shall procure and maintain at its sole cost and expense for the duration of this Contract, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by Contractor, its agents, representatives, volunteers, employees or subcontractors. Contractor acknowledges that it has familiarized itself with the extent and scope of work to be performed and certifies that its insurance policies provide coverage for losses that might arise from the types of hazards to be found therein.
 - i. Contractor's insurance coverage shall be primary and noncontributory with respect to FWHA, its commissioners, officers, directors, employees and volunteers.
 - ii. To the extent that subcontractors may be used, Contractor shall include all subcontractors as additional insured under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverage for subcontractors shall be subject to all of the requirements state herein.
 - iii. Certificates of Insurance and endorsements shall be furnished to FWHA and approved by FWHA before services are furnished.

- iv. The following standard insurance policies shall be required:
 - (a) Commercial General Liability Policy
 - (b) Workers' Compensation Policy and Employers Liability Policy
 - (c) Automobile Liability Policy
 - (d) Professional Liability Policy (applies to architects, engineers, brokers, lawyers, doctors, and other professional services).
- v. Approval, disapproval or failure to act by FWHA regarding any insurance supplied by Contractor shall not relieve Contractor of full responsibility or liability for damages and accident as set forth in the contract documents. Neither shall the bankruptcy, insolvency or denial of liability by the insurance company exonerate Contractor from liability.

(b) The following requirements are applicable to all policies:

- i. Commercial General Liability and Workers Compensation insurance shall be written by a carrier with an A-: VII or better rating in accordance with current A.M. Best Key Rating Guide.
- ii. Only insurance carriers licensed or duly authorized to do business in the State of Texas will be accepted.
- iii. Only deductible applicable to property damage are acceptable; if applicable they must be shown on the certificate of insurance and approved by FWHA.
- iv. Except for Professional Liability Insurance, "Claims made" policies will not be accepted.
- v. FWHA, its commissioners, officers, directors, employees, and volunteers, are to be added as "Additional Insured" to the General Liability and the Automobile Liability policies. The coverage shall contain no special limitations on the scope of protection afforded to FWHA, its commissioners, officers, directors, employees, and volunteers.
- vi. Each insurance policy shall be endorsed to state that coverage shall not be suspended, voided, canceled, non-renewed or reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested has been given to FWHA.
- vii. Upon request, certified copies of all insurance policies shall be furnished to FWHA.

(c) COMMERCIAL GENERAL LIABILITY INSURANCE

The following Commercial General Liability Insurance is required.

- i. Minimum Limits of \$1,000,000 per Occurrence with an annual Aggregate of \$1,000,000 Bodily Injury, Personal injury and Property Damage.
- ii. Coverage shall be provided for premises/operations and product/completed operations hazards.
- iii. The ISO commercial General Liability Policy form ("Occurrence" form CG -0001, Ed. 11/88) or broader with no deletions of coverage. Any exclusions, changes or limitations of coverage must be submitted with Contractor's written proposal and must be approved by the FWHA risk manager.
- iv. A Waiver of Subrogation in favor of FWHA must be endorsed to the policy.

(d) WORKERS' COMPENSATION INSURANCE

- i. Workers Compensation to Statutory limits;
- ii. Minimum Employer's Liability Limits of:
 - (a) By Accident - \$500,000 each accident;
 - (b) By Disease - \$500,000 Policy limit; and,
 - (c) By Disease - \$500,000 each Employee
- iii. "Texas," must appear in items 3A of the declarations page of item 3C must contain the following : "All state except those listed in item 3A and the state of NV, ND, OH, WA, WV, and WY."
- iv. A Waiver of Subrogation in favor of FWHA must be endorsed to the policy.

(e) AUTOMOBILE LIABILITY

The following Automobile Liability Insurance will be required:

- i. On Owned, Non-owned or Hired motor vehicles used on the site or in connection therewith, a minimum Combined Single limit of \$1,000,000 each Accident for Bodily Injury and Property Damage.
- ii. FWHA, its commissioners, officers, directors, employees and volunteers, shall be added as "Additional Insureds."
- iii. Insurance Services Office Business Auto coverage form (CA 0001, Ed. 6/92) or broader with symbol 1, "any auto" shown in the Covered Autos portion of the declarations page.

- iv. There shall be no special limitations regarding the scope of protection afforded to FWHA, its commissioners, officers, directors, employees and volunteers.
- v. A Waiver of Subrogation in favor of FWHA must be endorsed in the policy.

(f) **PROFESSIONAL LIABILITY**

The following Professional Liability Insurance will be required:

- i. Minimum limits of liability of \$1,000,000.00 each Claim, \$1,000,000.00 Aggregate.
- ii. The services, which are to be rendered to the FWHA, must be specifically in the policy as an insured service.
- iii. If the Professional Liability policy is written on a "Claims made" form, the Following additional requirements apply.
 - (a) A retroactive date must be on or before the execution date of the contract and the policy must provide an extended reporting period of less than five years following the completion date of the Contract; or
 - (b) The Contractor agrees to keep valid and collectible Professional Liability Insurance in full force and effect for a minimum of five years after the completion of this contract.

(g) **CERTIFICATES OF INSURANCE**

All Certificates of Insurance shall be prepared and executed by the insurance company of its authorized agent, and shall contain provisions warranting the following:

- i. The company is authorized to do business in the State of Texas.
- ii. The insurance set forth by the insurance company is written on forms approved by the Texas State Board of Insurance or ISO.
- iii. Sets forth all endorsement and insurance coverage according to requirements and instructions contained herein.
- iv. Shall specifically set forth the notice of cancellation, termination, or change in coverage provisions to FWHA.

- v. Original endorsements affecting coverage required by this section shall be furnished with the certificates of insurance.

(h) VERIFICATION OF COVERAGE

The following requirement pertains to all Certificates of Insurance.

Contractor shall furnish FWHA with certificates of insurance and with original endorsements effecting coverage by this clause. The certificates and endorsements for each policy are to be signed by a person authorized by that insurer to bind coverage on its behalf and written on forms that have been approved by the Texas Department of Insurance Services Office. They must set forth all coverage and deductibles as well as the notice of cancellation, termination or change in coverage provisions to FWHA according to requirements and instructions contained herein Certificates of Insurance (or certified copies of policies) and any required endorsements shall be furnished to and approved by FWHA before work commences. FWHA reserves the right to require complete, certified copies of all required insurance policies at any time.

(i) NOTICES

All notices pertaining to insurance shall be given to FWHA at the following two addresses:

Fort Worth Housing Authority
INSERT NAME & TITLE OF PERSON
MONITORING PERFORMANCE OF CONTRACT
300 S. Beach Street
Fort Worth, Texas 76105

Fort Worth Housing Authority
Kelvin Noble
Director of Procurement
300 S. Beach Street
Fort Worth, Texas 76105

8. INDEMNIFICATION

TO THE EXTENT PERMITTED BY LAW, CONTRACTOR AGREES TO DEFEND, INDEMNIFY AND HOLD FWHA, ITS COMMISSIONERS, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS ATTORNEYS, CONSULTANTS, AND VOLUTEERS HARMLESS AGAINST ANY AND ALL CLAIMS, LAWSUITS, JUDGMENTS, FINES, PENALTIES, COSTS, LOSSES AND EXPENSES, INCLUDING BUT NOT LIMITED TO ATTORNEY'S FEES, "DAMAGES" FOR PERSONAL INJURY (INCLUDING DEATH), PROPERTY DAMAGE, INJURY TO OR DESTRUCTION OF TANGIBLE PROPERTY, FAILURE TO COMPLY WITH GOVERNMENTAL LAWS OR REGULATIONS, OR OTHER HARM FOR WHICH RECOVERY OF DAMAGES IS SOUGHT, SUFFERED BY ANY PERSON OR PERSONS THAT MAY ARISE OUT OF OR BE OCCASIONED BY CONTRACTOR'S BREACH OF ANY OF THE TERMS OR PROVISIONS OF THIS CONTRACT, REGARDLESS OF WHETHER OR NOT IT IS CAUSED IN PART BY THE NEGLIGENCE OR CONDUCT OF FWHA OR OTHER PARTY INDEMNIFIED HEREUNDER.

SUCH OBLIGATION SHALL NOT BE CONSTRUED TO NEGATE, ABRIDGE, OR OTHERWISE REDUCE ANY OTHER RIGHT OR OBLIGATION OF INDEMNITY WHICH WOULD OTHERWISE EXIST AS TO ANY PARTY OR PERSON DESCRIBED IN THIS SECTION. THE PROVISIONS OF THIS PARAGRAPH ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTURAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY.

9. LIMITATION OF AGREEMENT

Contractor and FWHA agree and acknowledge that this Contract is entered into by and between Contractor and FWHA only, and is not intended to inure to the benefit of any other party. No party other than Contractor and FWHA may claim a benefit pursuant to this Contract, and in the event that any third party asserts a claim against FWHA as a result of this Contract, Contractor agrees to defend, indemnify and hold harmless FWHA, its commissioners, officers, directors, employees, agents, attorneys, consultants, and volunteers against any and all liabilities, demands, claims, suits, judgments, or other costs of expenses incident to any and all such claims.

10. ACCESS TO RECORDS

Contractor acknowledges that FWHA is a grantee of federal funds and therefore Contractor agrees to provide access by and between FWHA, the United State Department of Housing and Urban Development, the Comptroller General or the United States, or any of their duly authorized representative to any books, documents, papers, and records of Contractor which are directly pertinent to this Contract for the purposes of making audit, examination, excerpts, and transcriptions.

11. RETENTION OF RECORDS

Contractor agrees to retention of all records pertinent to this Contract for three (3) years after FWHA makes final payment hereunder and all other pending matters are closed.

12. EQUAL EMPLOYMENT OPPORTUNITY

Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin or handicap. 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, national origin or handicap. 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. Contractor shall include the terms and conditions of this clause in every subcontract unless exempted by the rules, regulations, or order of the Secretary of Labor issued under Executive Order 11245, as amended. Contractor agrees to indemnify, defend and save FWHA harmless from all claims, investigations and suits with respect to all alleged or actual violations of state or federal labor laws resulting from any act or acts, or omissions of Contractor.

13. EMPLOYMENT, TRAINING, AND CONTRACTING OPPORTUNITIES FOR LOW-INCOME PERSONS, SECTION 3 OF THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968

The Contractor agrees as follows:

- (a) The work to be performed under this contract is the requirements of section 3 of the

Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 171u (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 contractors commitments under this section 3 clause, and will post copies of the notice in conspicuous places in 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 contractors 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 of 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 requirements of 24 CFR part 135 require employment opportunities under 24 CFR part 135.
- (f) Noncompliance with HUD's regulations 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.
- (g) Pursuant to 24 CFR 905.170(b), compliance with Section 3 requirements shall be to the maximum extent consistent with, but not in derogation of compliance with section 7(b) of the Indian Self-determination and Education Assistance Act, 25 U.S.C. section 450e(b) when this law is applicable.

CONTRACTOR UNDERSTANDS AND AGREES THAT FAILURE TO COMPLY WITH FWHA'S SECTION 3 REPORTING REQUIREMENTS IS GROUNDS FOR THE TERMINATION OF THIS CONTRACT.

14. INTEREST OF MEMBERS OF CONGRESS

No member of or delegate to the Congress of the United States of America shall be admitted to any share or part of this Contract or to any benefit that may arise there from.

15. INTEREST OF MEMBERS, OFFICERS OR EMPLOYEES AND FORMER MEMBERS, OFFICERS OR EMPLOYEES

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

16. LIMITATION ON PAYMENTS MADE TO INFLUENCE CERTAIN FEDERAL FINANCIAL TRANSACTION

The Contractor agrees as follows:

- (a) Contractor agrees to comply with Section 1352 of Title 31, United States Code which prohibits the use of Federal appropriated funds 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 any 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; or the modification of any Federal contract, grant, loan, or cooperative agreement.
- (b) Contractor further agrees to comply with the requirement of the Act to furnish a disclosure (OMB Standards form LLL, Disclosure of Lobbying Activities) if any funds other than Federal appropriated funds (including profit or fees received under a covered Federal transaction) have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, and officer or employee of Congress, or any employee of a Member of Congress in connection with a Federal contract, grant, loan, or Cooperative agreement.

17. ROYALTIES AND PATENTS

Contractor shall pay all royalties and license fees. It shall defend all suits or claims for infringement of any patent rights and shall save FWHA harmless from loss on account thereof; except that FWHA shall be responsible for all such loss when a particular design, process or the product of a particular manufacturer or manufacturers is specified and Contractor has no reason to believe that the specified design, process, or product is an infringement. If, however, Contractor has reason to believe that any

design, process or product specified is an infringement of a patent, Contractor shall promptly notify FWHA's Contracting Officer. Failure to give such notice shall make Contractor responsible for resultant loss.

18. ASSIGNMENT

This Contract is not assignable unless such assignment has been consented to in writing by both parties.

19. INTEGRATION AND SEVERABILITY

This Contract constitutes the entire agreement between Contractor and FWHA with respect to the subject matter hereof and supersedes all prior agreements, either written or oral. This Contract cannot be altered, changed or amended except by written instrument signed by both parties. Should any portion of this Contract be deemed unenforceable by a court of competent jurisdiction or by operation of law, the remaining portions hereof shall be unaffected and be interpreted as if such unenforceable portions were initially deleted.

20. STATE OF LAW AND VENUE

This Contract has been executed and delivered in the State of Texas, and shall be construed in accordance with the laws of such State, without regard to the conflict of law provisions of the State of Texas or any other jurisdiction. Any action brought to enforce or interpret this Contract shall be brought in the court of appropriate jurisdiction in Fort Worth, Tarrant County, Texas.

21. WAIVER

No waiver of any term or condition of this Contract by either party shall be deemed to imply or constitute a further waiver of the same term or condition or of any other term or condition. Any such waiver must be in writing and signed by the party granting such waiver.

22. CONSTRUCTION

Each party agrees that any court or considering this Contract shall not apply the presumption that the terms hereof shall be more strictly construed against a party by reason of the rule or conclusion that a document should be construed more strictly against the party who prepared it.

23. PARAGRAPH HEADINGS

The paragraph headings use herein are descriptive only and shall have no legal force and effect whatsoever.

24. ADVICE OF COUNSEL

Both parties acknowledge that this Contract is a legal document and that they have been advised and given the opportunity to seek the advice of legal counsel of their own choosing as to its contents, obligations and effect.

25. NO AGENCY RELATIONSHIP

Nothing contained in this Contract or in the relationship between FWHA and Contractor shall be deemed to constitute such relationship as a partnership or joint venture, or constitute Contractor as an employee or a partner of FWHA, or create any other relationship between FWHA and Contractor, expressed or implied, it being understood and agreed that Contractor is an independent contractor. In particular, Contractor shall be responsible for all Contractor’s employees and agents, the supervision of all persons performing services for and on behalf of Contractor and for determining the manner and time of performance of all acts to be performed by Contractor under this Contract.

26. INCONSISTENCIES BETWEEN THE CONTRACT DOCUMENTS

To the extent there may be inconsistencies in the terms contained in this Contract, the Services (Exhibit A) and the Proposal (Exhibit B), this Contract shall control over all other documents.

SIGNED this _____ day of _____, 20____

THE HOUSING AUTHORITY OF
THE CITY OF FORT WORTH

BY: _____
NAOMI BYRNE
PRESIDENT

INSERT NAME OF
CONTRACTOR

BY: _____
Name:
Title:

