

Baltimore Regional Housing Partnership  
**RFP 2024-101**  
**DEVELOPMENT LOAN PROGRAM**

Due: Friday, August 22, 2024

INQUIRIES AND PROPOSALS SHOULD BE DIRECTED TO:

Pete Cimbolic  
Baltimore Regional Housing Partnership, Inc.  
100 North Charles Street, 2<sup>nd</sup> Floor  
Baltimore, Maryland 21201

(t): 667-207-2150  
(e): [pcimbolic@brhp.org](mailto:pcimbolic@brhp.org)



100 North Charles Street  
Baltimore, Maryland 21201

410-223-2222  
[www.brhp.org](http://www.brhp.org)

## RFP 2024-101: DEVELOPMENT LOAN PROGRAM

The Baltimore Regional Housing Partnership, Inc. (BRHP) is soliciting proposals from interested parties to request funding from the BRHP to develop and support affordable housing unit creation or preservation in BRHP-designated opportunity areas, or areas with a concerted and documented revitalization effort.

All submissions shall consist of an electronic copy sent according to the instructions contained in this RFP.

BRHP reserves the right to reject any or all proposals sent in response to this RFP. MBE/WBE firms are encouraged to submit proposals.

All questions that pertain to this RFQ must be submitted in writing and e-mailed to BRHP at [pcimbolic@brhp.org](mailto:pcimbolic@brhp.org) no later than August 5, 2024, no later than 5:00 PM.

PROPOSAL DUE DATE/TIME: Friday, August 22, 2024, by 5:00 PM  
Baltimore Regional Housing Partnership  
Pete Cimbolic  
100 North Charles Street, 2<sup>nd</sup> Floor  
Baltimore, Maryland 21201  
[pcimbolic@brhp.org](mailto:pcimbolic@brhp.org)

SOLICITATION DOCUMENTS ARE AVAILABLE ONLINE AT: [www.brhp.org/about/requests\\_for\\_proposals](http://www.brhp.org/about/requests_for_proposals)

Baltimore Regional Housing Partnership, Inc.  
100 North Charles Street, 2<sup>nd</sup> Floor  
Baltimore, Maryland 21201



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- Form #3: Form HUD-5370-C, General Conditions for Non-Construction Contracts
- Form #4: Certification Regarding Debarment, Suspension, Proposed Debarment, and Other Responsibility Matters
- Form #5: Conflicts Certification and Disclosure
- Form #6: Fair Housing and Project Accessibility Certification

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## GENERAL INFORMATION

- A. Description of Entity** The Baltimore Regional Housing Partnership, Inc. (BRHP), a nonprofit organization, is the Regional Administrator for the Baltimore Housing Mobility Program (BHMP), under contract with the Housing Authority of Baltimore City. The BHMP has opened pathways to a better future for over ten years. It currently provides over 4,300 low-income families expanded housing, educational, and employment options in opportunity areas across the region. Eligible families that complete the housing counseling program receive a Housing Choice Voucher, high-quality housing in an opportunity area, and counseling support in their transition to their new community. In addition to the Housing Mobility Counseling and Housing Choice Voucher programs, BRHP is responsible for development services pursuant to a U.S. Department of Housing and Urban Development (HUD) grant, including approximately 120 project-based units throughout the Baltimore region, including a scattered site development program.
- B. Objective** BRHP seeks proposals from qualified Developer Partner(s) to whom it may make available funds to create affordable units in BRHP-designated opportunity areas, or areas with a concerted and documented revitalization effort. Proposals should be for multifamily projects with at least ten (10) units. BRHP is offering funding totaling \$1,325,000, available in funding amounts no less than \$500,000 and no more than \$1,325,000.

The purpose of this RFP is to create long-term affordable housing, integrated with market rate housing and mixed income communities, in high opportunity locations within the Baltimore region.

The selection process under this RFP may result in the selection of up to two (2) projects for awards. BRHP intends to make awards under this RFP to Developer Partners that are focused and have experience with developing multifamily units. The successful parties will demonstrate through their proposals that each possesses the necessary qualifications for development, acquisition, rehabilitation and management of properties to be approved by BRHP and HUD to create affordable units.

Interested individuals, firms or entities with a record of success in the development of affordable housing, including those able to demonstrate successful LIHTC application and development experience in Maryland, are encouraged to respond to this RFP.

Selection and award of funds for projects as a result of this RFP does not guarantee that a project will be approved for HUD funding.



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- C. **Equal Opportunity Policy** BRHP does not discriminate against any employee, applicant or sub-contractor because of race, sex, color, religion, age, national origin, sexual orientation or gender identity. BRHP takes affirmative steps to ensure that applicants are employed or sub-contracted, and that employees and sub-contractors are treated fairly during employment or for the term of their contract, without regard to their race, sex, color, religion, age, national origin, sexual orientation or gender identity. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfers; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

## PROGRAM DESCRIPTION

- A. **HOPE VI Funding** The funding available through this RFP is HOPE VI/URD funding made available to BRHP through the *Thompson v. HUD* Settlement Agreement. Funds are made available to Developer Partners in the form of loan with simple interest accruing at an annual rate of three percent (3%). Loan terms may vary depending upon project needs but are required to be at least fifteen (15) years and may not exceed forty (40) years.
- B. **Housing Eligibility** The Program requires compliance with all equal opportunity requirements under federal law and regulations including the authorities cited at 24 CFR 5.105(a).

## FUNDING PARAMETERS

- A. **Guidelines for Program Loan Funds** The following information provides general parameters surrounding the program loan funds to be given to selected developers for eligible projects:
1. Eligible projects must be located within a BRHP-designated opportunity area (see attachment A); or if not located in an opportunity area, an area with a sufficient revitalization plan, as determined by the RFP scoring committee.
  2. For the purpose of this program, a project will be defined as a multifamily dwelling structure with a minimum of ten (10) units.
  3. Developers must provide BRHP and HUD with any documentation required or requested, which may include, but is not limited to: 1) photos/site drawings of proposed project; 2) purchase and sale agreement(s); 3) financial pro forma(s); 4) project description; 5) site and neighborhood characteristics; 6) evidence of site

control/title; 7) evidence of loans, closings, and/or bond sales; 8) evidence of other financing and funding sources (including other federal, state and local commitments); 9) opinions of counsel; and 10) appraisal(s) from an independent third party appraiser.

- B. Program Loan Contributions** Requests for program loan contributions under this RFP should be at least \$500,000 and may not exceed \$1,325,000. Adjustments may be made to award amounts prior to loan closing at the request of the developer partner, subject to BRHP approval. All awards and loans are subject to funding availability.
- C. Loan Terms** The program loan funds given to the selected developers after receiving approval from HUD will occupy a subordinated lien position.
1. **Term** Loan terms are required to be at least fifteen (15) years and may not exceed forty (40) years.
  2. **Interest.** Each loan shall bear simple interest at the rate of three percent (3%) per annum on all sums advanced with no interest maximum cap, and a default rate set at ten percent (10%).
  3. **Repayment** All principal and interest shall be due on the maturity date. There shall be no payment of principal or interest due during the loan term. However, in the event of default under the loan terms, all principal and accrued interest will immediately become due and owing. Borrower shall have the right to prepay all or any part of the loan at any time prior to the maturity date.

## PROJECT ATTRIBUTES

- A. Project Viability** BRHP is seeking proposals from qualified not-for-profit for-profit, governmental, or semi-governmental developers to create affordable housing units in the region. It is important that the project(s) selected is/are viable and can reach loan closing within twelve (12) calendar months. Proposals should include documentation of the following:
1. Market/need/demand analysis
  2. Capital and operating cost budgets
  3. Zoning and other development approvals
  4. Financial pro-formas and project development budgets
  5. Summary narrative of secured financing and capital contributions

- B. Development Team** The following will be viewed as favorable by the selection committee:
1. At least five (5) years of experience developing affordable housing units
  2. Successful track record of developing multifamily or single-family homes in the Baltimore metropolitan region
  3. Previous experience involving layered financing including, but not limited to, Low Income Housing Tax Credits, bonds, and conventional financing
  4. Demonstrated Financial and administrative capacity to complete projects
  5. Demonstrated knowledge and understanding of federal, state and local laws and regulations governing affordable housing, and the ability to ensure compliance based upon past performance

## PROPOSAL SUBMISSION

- A. Closing Submission Date** Proposals must be submitted by electronic and hard copy as specified in paragraph D below **no later than 5:00 P.M. EST on Thursday, August 22, 2024.** Proposals received after the deadline will not be accepted.
- B. Inquiries** Respondents desiring any explanation or further information regarding this solicitation must submit an e-mail request no later than 5:00 PM EST on Monday, August 5, 2024. The request must be submitted in writing to the following e-mail address: [pcimbolic@brhp.org](mailto:pcimbolic@brhp.org). All responses will be posted by Monday, August 12, 2024, on the BRHP website at [www.brhp.org/about/requests\\_for\\_proposals](http://www.brhp.org/about/requests_for_proposals).
- C. Conditions of Proposal** All costs incurred in the preparation of a proposal responding to this RFP will be the responsibility of the Offeror and will not be reimbursed by BRHP.
- D. Instructions for Submitting Proposal** Respondents must submit an electronic copy via email, DropBox, or similar, with an email notifying
- Pete Cimbolic  
Managing Director, Research and Innovation  
100 North Charles Street, 2<sup>nd</sup> Floor  
Baltimore, Maryland 21201  
[pcimbolic@brhp.org](mailto:pcimbolic@brhp.org)

In order to ensure a fair review and selection process, respondents submitting proposals are specifically requested not to make other contacts with BRHP staff or members of the Board





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of Directors regarding the proposal. Failure to comply with this request will result in disqualification of the proposal.

- E. **Right to Reject** BRHP reserves the right to reject any and all proposals, to waive irregularities and informalities, to request additional information from all Offerors and further reserves the right to select the proposal(s) which furthers the best interests of the BRHP program.
- F. **Right to Modify** BRHP may deem it necessary to make modifications, clarifications or changes to the RFP at any time. Those modifications will be made in the form of a written addendum issued by BRHP. The issuance of an addendum modifies only those items specifically discussed in the addendum and all other terms and conditions of the RFP will remain unchanged.
- G. **Minority-Owned Businesses** BRHP strongly encourages small, locally-owned, minority-owned, women-owned, socially and economically disadvantaged and service-disabled veteran-owned businesses to submit a proposal, in response to this RFQ. Efforts will be made by BRHP to utilize these types of businesses.
- H. **Consent** By submitting a proposal to BRHP, Offeror consents to the Program and Funding Parameters and other terms noted herein. Exceptions desired must be clearly noted in the submitted proposal.
- I. **Effective Period** Each proposal shall be considered binding and in effect for a period of one hundred eighty (180) days following the proposal opening.

## PROPOSAL CONTENTS

In order to simplify the review process and to obtain the maximum degree of comparability, the proposals should include the following items and be organized in the manner specified below:

- A. **Cover Page** The cover page should identify the RFP by its name. It should also bear the Respondent's name, address, telephone number and e-mail address.
- B. **Table of Contents** The table of contents should clearly identify the location of each section of the package.
- C. **Contents**

1. **Description of Development Team and Ownership Structure** This narrative section should include an introduction of the development team, past projects of similar scope, and a brief description of the ownership structure for the proposed project.

This section should also introduce the development team, specifying roles and responsibilities of team members and identifying the authorized representative (with contact address, telephone number and e-mail address included) who will serve as the primary contact throughout the award and loan process. Include information for a contact alternate in the event that the authorized representative is absent or unavailable.

2. **Project Narrative Description** This should be a narrative summary of the project, including:

- Location of the project
- A description of the neighborhood, indicating walkability, nearby amenities, and access to transit
- Site and project design elements and features
- Project and unit amenities or features
- A chart with the number of units by bedroom size
- A description of the income targeting (include number of units for each income band)
- A link to project renderings, including exterior and interior renderings and sample unit floor plans
- Identify the proposed management company
- Optional - Documentation demonstrating a revitalization plan, progress towards or commitments to such a plan

Attachments for this section should include:

1. Affirmative Fair Housing Marketing Plan
2. Tenant Selection Criteria

3. **Project Viability Section** This section should contain a narrative description of:

- Summary narrative of secured financing and capital contributions
- All land use, zoning, APFO and permitting development hurdles that have been cleared and any that remain. If any remain, please indicate the anticipated timeframe for clearing.
- Construction contractors committed to the project
- The anticipated construction closing and completion date

Attachments for this section should include:

1. Market/need/demand analysis
2. Capital and operating cost budgets
3. Zoning and other development approvals
4. Financial pro-formas and project development budgets

4. **Required Documents** Each Respondent must complete and submit the forms provided in **Appendix B**. All the following documents are required to be submitted with the proposal:

1. **Form #1:** Form HUD-5369-B, Instructions to Offerors – Non-Construction
2. **Form #2:** Form HUD-5369-C, Certifications and Representations of Offerors – Non-Construction Contract
3. **Form #3:** Form HUD-5370-C, General Conditions for Non-Construction Contracts
4. **Form #4:** Certification Regarding Debarment, Suspension, Proposed Debarment, and Other Responsibility Matters
5. **Form #5:** Conflicts Certification and Disclosure
6. **Form #6:** Fair Housing and Project Accessibility Certification
7. **Form #7:** Insurance Coverage – Evidence of all appropriate and applicable insurance coverage carried by the Respondent, including policy coverage periods and limits.

5. **Optional Documents** Proposals can include additional documents to reference in narrative sections as attachments or addenda.

## ANTICIPATED SCHEDULE OF EVENTS.

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

Event	Date*
RFP issued	July 19, 2024
Questions Due	August 5, 2024
Responses to Questions Posted	August 12, 2024
Proposal Due Date	August 22, 2024
Award Date	September 13, 2024

\*BRHP reserves the right, at its sole discretion, to amend any or all of the dates associated with the anticipated schedule of events.

**IX. EVALUATION CRITERIA AND PROCEDURE.**

**A. Evaluation Criteria.** BRHP will evaluate all proposals received based upon the following factors with corresponding ranking points:

Category	Evaluation Criteria	Possible Points
Geographic targeting	Opportunity areas and areas with demonstrated revitalization plan <ul style="list-style-type: none"> <li>• Assessment of opportunity score of property census tract and contiguous tracts</li> <li>• Revitalization plan to be evaluated by Committee (if applicable)</li> </ul>	40
Project viability	Evaluation of: <ul style="list-style-type: none"> <li>• Secured funding</li> <li>• Closing date/Completion date</li> <li>• Land use/permitting hurdles</li> </ul>	30
Project features	Evaluation of: <ul style="list-style-type: none"> <li>• Affordability mix</li> <li>• Bedroom mix</li> <li>• Unit amenities</li> <li>• Community features</li> <li>• Tenant selection criteria</li> <li>• AFHMP</li> </ul>	40

**B. Evaluation Procedure.**

1. Review Process. A Selection Panel comprised of at least three of BRHP’s Board and/or staff members will review the proposals received based upon the evaluation criteria. BRHP may, at its discretion, contact an Offeror if materials are missing and/or if BRHP requires clarification of particular elements of the submission, allowing Offeror five (5) business days to respond. However, BRHP is



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not obligated to do so and reserves the right to make an award without further discussion of the proposals submitted.

Proposals will initially be reviewed to determine if all required materials have been submitted. The Selection Panel will then analyze and rank the proposals in comparison with each other.

2. Notification of Award. BRHP shall notify each unsuccessful and successful Offeror in writing after the Selection Panel has concluded its review. An opportunity will be provided to request a debriefing by BRHP, if desired. If requested within the time specified in the notice, the debriefing will explain how the proposal was unsuccessful, but will not include a point-by-point comparison with the other proposals, and may not reveal any information about another Offeror and/or its proposal that is protected from disclosure.
3. Confidentiality. BRHP shall maintain the confidence of the information received, if requested, and to the extent possible. However, all information submitted as part of, or in support of, any proposals in response to this RFP may be disclosed by BRHP if such disclosure is required by local, state or federal law.



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## Appendix A: BRHP Opportunity Census Tracts

(2020 Census Tract Geographies)

### Anne Arundel County

7011.01	7027.04	7306.03	7312.09	7405.02
7011.03	7061.02	7306.05	7312.1	7406.01
7011.04	7061.03	7306.06	7313.03	7406.02
7012.01	7063.02	7307.01	7313.06	7406.03
7012.02	7063.04	7307.02	7313.07	7407.01
7013.01	7064.04	7308	7313.08	7407.03
7013.02	7065	7309.01	7313.09	7407.04
7014	7066	7309.02	7313.1	7408
7021	7067	7310.02	7313.12	7409
7022.04	7070.01	7310.03	7313.13	7410
7022.05	7070.02	7310.04	7401.03	7502.04
7022.06	7080.01	7311.03	7401.04	7503
7022.08	7080.04	7311.04	7401.06	7504
7022.09	7301.01	7311.05	7401.07	7508.01
7023	7301.02	7311.06	7401.08	7508.04
7024.02	7303	7311.07	7402.03	7512
7025	7304.01	7312.01	7402.05	7514
7026.01	7305.07	7312.05	7403.03	7516
7026.02	7305.09	7312.06	7403.04	7517
7027.02	7305.1	7312.07	7403.05	9800
7027.03	7306.01	7312.08	7405.01	9900

### Baltimore City

101	603	1308.06	2403	2712
102	902	2101	2404	2713
103	1201	2201	2609	2714
104	1202.01	2301	2611	2715.01
105	1306	2302	2702	2715.03
201	1307	2303	2703.01	2720.03
202	1308.03	2401	2711.01	2720.04
203	1308.04	2402	2711.02	2720.05



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## Baltimore County

4001	4035	4085.06	4202	4903.02
4002	4036.01	4085.07	4304	4903.03
4004	4036.02	4086.01	4306	4903.04
4005	4037.03	4086.02	4307	4904
4006	4037.04	4087.02	4308	4905
4007.01	4038.01	4087.03	4309	4906.01
4007.02	4038.02	4087.04	4401	4906.02
4008	4038.03	4088	4402	4906.03
4009	4041.01	4089	4403	4907.01
4010	4041.02	4101	4404	4907.03
4011.01	4042.02	4102	4405	4908
4014	4044.02	4111.01	4406	4909
4015.03	4044.03	4111.02	4407.02	4910
4015.04	4044.04	4112.01	4408	4911
4015.05	4046	4112.02	4411.01	4912.01
4015.07	4048	4113.02	4502	4913
4022.01	4049	4113.03	4503	4917.01
4022.02	4050	4113.06	4509	4919
4023.02	4060	4113.07	4510	4920.02
4023.03	4070.01	4113.08	4511	4921.01
4025.04	4070.02	4113.09	4514.01	4921.02
4025.06	4081	4114.04	4517.01	4922
4025.1	4082	4114.06	4517.02	4924.01
4025.11	4083.02	4114.08	4518.02	4924.02
4026.03	4083.03	4114.09	4519	4925
4026.04	4083.04	4114.1	4520	4926
4031	4084	4114.11	4521	
4032.01	4085.02	4114.12	4524	
4033	4085.03	4114.13	4901	
4034.01	4085.05	4201	4902	

## Carroll County

5010.01	5051.02	5062	5078.02	5130.01
5010.02	5052.03	5075	5081.03	5130.02
5020	5052.05	5076.01	5082	5141
5030	5052.06	5076.02	5090.01	5142.01
5041	5052.07	5077.02	5090.02	5142.02
5042.01	5052.08	5077.03	5100	
5042.02	5061.01	5077.04	5110	
5051.01	5061.02	5078.01	5120	



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## Harford County

3011.02	3017.03	3031.02	3036.02	3041.02
3011.05	3017.04	3032.01	3036.03	3042.01
3011.06	3017.05	3032.03	3036.05	3042.02
3011.07	3017.06	3032.04	3036.06	3051
3011.08	3017.07	3032.05	3037	3052
3012.01	3021	3032.06	3038.01	3053
3012.02	3022	3033	3038.02	3062
3012.04	3028.01	3034	3038.03	3063
3012.05	3028.02	3035.01	3039	3064
3014.01	3031.01	3035.02	3041.01	3065

## Howard County (All Census Tracts)

6011.03	6023.02	6040.01	6055.04	6067.08
6011.04	6023.03	6040.03	6055.05	6068.03
6011.05	6023.04	6040.04	6056.01	6068.04
6011.07	6023.05	6051.03	6056.02	6068.05
6011.08	6023.06	6051.04	6066.01	6068.07
6012.03	6026	6051.05	6066.03	6068.08
6012.04	6027	6051.06	6066.04	6069.01
6012.05	6028	6054.01	6066.06	6069.04
6012.06	6029	6054.03	6066.07	6069.05
6021	6030.01	6054.04	6067.01	6069.06
6022.01	6030.03	6055.02	6067.04	6069.07
6022.02	6030.04	6055.03	6067.06	





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## Appendix B: Required Forms

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Form #5: Conflicts Certification and Disclosure

Form #6: Fair Housing and Project Accessibility Certification

# Instructions to Offerors Non-Construction

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



- 03291 -

## 1. Preparation of Offers

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

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

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

## 2. Submission of Offers

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

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

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

## 3. Amendments to Solicitations

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

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

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

## 4. Explanation to Prospective Offerors

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

## 5. Responsibility of Prospective Contractor

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) The HA may

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

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

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

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

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

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

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

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

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

[Describe bid or proposal preparation instructions here:]

# Certifications and Representations of Offerors Non-Construction Contract

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

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

## 1. Contingent Fee Representation and Agreement

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

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

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

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

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

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

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

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

(Check the block applicable to you)

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

## 3. Certificate of Independent Price Determination

(a) The bidder/offeror certifies that—

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

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

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

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

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

#### 4. Organizational Conflicts of Interest Certification

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

- (i) Award of the contract may result in an unfair competitive advantage;
- (ii) The Contractor's objectivity in performing the contract work may be impaired; or
- (iii) That the Contractor has disclosed all relevant information and requested the HA to make a determination with respect to this Contract.

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

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

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

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

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

#### 6. Conflict of Interest

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

#### 7. Offeror's Signature

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

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Signature & Date:

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Typed or Printed Name:

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Title:

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# General Conditions for Non-Construction Contracts

## Section I – (With or without Maintenance Work)

### U.S. Department of Housing and Urban Development

Office of Public and Indian Housing

Office of Labor Relations

OMB Approval No. 2577-0157 (exp. 1/01/2014)

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.**

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

### 1. Definitions

The following definitions are applicable to this contract:

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

### 2. Changes

- (a) The HA may at any time, by written order, and without notice to the sureties, if any, make changes within the general scope of this contract in the services to be performed or supplies to be delivered.
- (b) If any such change causes an increase or decrease in the hourly rate, the not-to-exceed amount of the contract, or the time required for performance of any part of the work under this contract, whether or not changed by the order, or otherwise affects the conditions of this contract, the HA shall make an equitable adjustment in the not-to-exceed amount, the hourly rate, the delivery schedule, or other affected terms, and shall modify the contract accordingly.
- (c) The Contractor must assert its right to an equitable adjustment under this clause within 30 days from the date of receipt of the written order. However, if the HA decides that the facts justify it, the HA may receive and act upon a

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

### 3. Termination for Convenience and Default

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

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

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

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

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

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

#### 6. Energy Efficiency

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

#### 7. Disputes

- (a) All disputes arising under or relating to this contract, except for disputes arising under clauses contained in Section III, Labor Standards Provisions, including any claims for damages for the alleged breach there of which are not disposed of by agreement, shall be resolved under this clause.
- (b) All claims by the Contractor shall be made in writing and submitted to the HA. A claim by the HA against the Contractor shall be subject to a written decision by the HA.
- (c) The HA shall, with reasonable promptness, but in no event in no more than 60 days, render a decision concerning any claim hereunder. Unless the Contractor, within 30 days after receipt of the HA's decision, shall notify the HA in writing that it takes exception to such decision, the decision shall be final and conclusive.
- (d) Provided the Contractor has (i) given the notice within the time stated in paragraph (c) above, and (ii) excepted its claim relating to such decision from the final release, and (iii) brought suit against the HA not later than one year after receipt of final payment, or if final payment has not been made, not later than one year after the Contractor has had a reasonable time to respond to a written request by the HA that it submit a final voucher and release, whichever is earlier, then the HA's decision shall not be final or conclusive, but the dispute shall be determined on the merits by a court of competent jurisdiction.
- (e) The Contractor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under the contract, and comply with any decision of the HA.

#### 8. Contract Termination; Debarment

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

#### 9. Assignment of Contract

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

#### 10. Certificate and Release

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

#### 11. Organizational Conflicts of Interest

- (a) The Contractor warrants that to the best of its knowledge and belief and except as otherwise disclosed, it does not have any organizational conflict of interest which is defined as a situation in which the nature of work under this contract and a contractor's organizational, financial, contractual or other interests are such that:
  - (i) Award of the contract may result in an unfair competitive advantage; or
  - (ii) The Contractor's objectivity in performing the contract work may be impaired.
- (b) The Contractor agrees that if after award it discovers an organizational conflict of interest with respect to this contract or any task/delivery order under the contract, he or she shall make an immediate and full disclosure in writing to the Contracting Officer which shall include a description of the action which the Contractor has taken or intends to take to eliminate or neutralize the conflict. The HA may, however, terminate the contract or task/delivery order for the convenience of the HA if it would be in the best interest of the HA.
- (c) In the event the Contractor was aware of an organizational conflict of interest before the award of this contract and intentionally did not disclose the conflict to the Contracting Officer, the HA may terminate the contract for default.
- (d) The terms of this clause shall be included in all subcontracts and consulting agreements wherein the work to be performed is similar to the service provided by the prime Contractor. The Contractor shall include in such subcontracts and consulting agreements any necessary provisions to eliminate or neutralize conflicts of interest.

#### 12. Inspection and Acceptance

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

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

- (b) The Contractor shall make any required corrections promptly at no additional charge and return a revised copy of the product to the HA within 7 days of notification or a later date if extended by the HA.
- (c) Failure by the Contractor to proceed with reasonable promptness to make necessary corrections shall be a default. If the Contractor's submission of corrected work remains unacceptable, the HA may terminate this contract (or the task order involved) or reduce the contract price or cost to reflect the reduced value of services received.

### 13. Interest of Members of Congress

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

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

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

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

(a) Definitions. As used in this clause:

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Prohibition.

- (i) Section 1352 of title 31, U.S.C. provides in part that no appropriated funds may be expended by the recipient of a Federal contract, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered Federal actions: the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (ii) The prohibition does not apply as follows:



(1) Agency and legislative liaison by Own Employees.

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

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

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

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

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

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

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

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

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

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

(2) Professional and technical services.

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

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

(ii) Any reasonable payment to a person, other than an officer or employee of a

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

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

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

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

(iii) Selling activities by independent sales representatives.

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

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

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

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

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

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

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## 16. Equal Employment Opportunity

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

- (a) The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin.
- (b) The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to (1) employment; (2) upgrading; (3) demotion; (4) transfer; (5) recruitment or recruitment advertising; (6) layoff or termination; (7) rates of pay or other forms of compensation; and (8) selection for training, including apprenticeship.
- (c) The Contractor shall post in conspicuous places available to employees and applicants for employment the notices to be provided by the Contracting Officer that explain this clause.
- (d) The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
- (e) The Contractor shall send, to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, the notice to be provided by the Contracting Officer advising the labor union or workers' representative of the Contractor's commitments under this clause, and post copies of the notice in conspicuous places available to employees and applicants for employment.
- (f) The Contractor shall comply with Executive Order 11246, as amended, and the rules, regulations, and orders of the Secretary of Labor.
- (g) The Contractor shall furnish all information and reports required by Executive Order 11246, as amended and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto. The Contractor shall permit access to its books, records, and accounts by the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (h) In the event of a determination that the Contractor is not in compliance with this clause or any rule, regulation, or order of the Secretary of Labor, this contract may be canceled, terminated, or suspended in whole or in part, and the Contractor may be declared ineligible for further Government contracts, or federally assisted construction contracts under the procedures authorized in Executive Order 11246, as amended. In addition, sanctions may be imposed and remedies invoked against the Contractor as provided in Executive Order 11246, as amended, the rules, regulations, and orders of the Secretary of Labor, or as otherwise provided by law.
- (i) The Contractor shall include the terms and conditions of this clause in every subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor issued under Executive Order 11246, as amended, so that these terms and conditions will be binding upon each subcontractor or vendor. The Contractor shall take such action with respect to any subcontractor or purchase order as the Secretary of Housing and Urban Development or the Secretary of Labor may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided that if the

Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

## 17. Dissemination or Disclosure of Information

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

## 18. Contractor's Status

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

## 19. Other Contractors

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

## 20. Liens

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

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

- (a) The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- (b) The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 135 regulations.
- (c) The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of

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

- (d) The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.
- (e) The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR Part 135.
- (f) Noncompliance with HUD's regulations in 24 CFR Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

## **22. Procurement of Recovered Materials**

- (a) In accordance with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, the Contractor shall procure items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition. The Contractor shall procure items designated in the EPA guidelines that contain the highest percentage of recovered materials practicable unless the Contractor determines that such items: (1) are not reasonably available in a reasonable period of time; (2) fail to meet reasonable performance standards, which shall be determined on the basis of the guidelines of the National Institute of Standards and Technology, if applicable to the item; or (3) are only available at an unreasonable price.
- (b) Paragraph (a) of this clause shall apply to items purchased under this contract where: (1) the Contractor purchases in excess of \$10,000 of the item under this contract; or (2) during the preceding Federal fiscal year, the Contractor: (i) purchased any amount of the items for use under a contract that was funded with Federal appropriations and was with a Federal agency or a State agency or agency of a political subdivision of a State; and (ii) purchased a total of in excess of \$10,000 of the item both under and outside that contract.



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**Certification Regarding Debarment, Suspension, Proposed Debarment, and Other Responsibility Matters** (Per [48CFR 52.209-5](#))

(I) I, \_\_\_\_\_, hereby certify on behalf of \_\_\_\_\_  
(insert name of Offeror/Firm) and its key principals, associates and staff, that we:

- (A) Are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency;
- (B) Have not, within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) contract or subcontract; violation of Federal or State antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, violating Federal criminal tax laws, or receiving stolen property (if offeror checks "have", the offeror shall also see 52.209-7, if included in this solicitation);
- (C) Are not presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in Section (A) above;
- (D) Have not, within a three-year period preceding this offer, been notified of any delinquent Federal taxes in an amount that exceeds \$3,000 for which the liability remains unsatisfied;
- (E) Have not, within a 3-year period preceding this offer, had one or more contracts terminated for default by any Federal agency; and
- (F) Do not have an Active Exclusion on the System for Award Management (SAM).

(2) The Offeror shall provide immediate written notice to BRHP if, at any time prior to contract award, the Offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

(3) The certification in paragraph (1) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Offeror knowingly rendered an erroneous certification, in addition to other remedies available to the Government, BRHP may terminate the contract resulting from this award for default.

(4) Where the Offeror is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this certification form.

Offeror (Firm): \_\_\_\_\_ Date: \_\_\_\_\_

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

Name:

Title:

**Guidance:**

(A) Offeror's inability to certify to the items in paragraph (1)(B), (1)(C), (1)(D), and (1)(E) will not necessarily result in withholding of an award. However, this certification will be considered in connection with a determination of the Offeror's responsibility. Failure of the Offeror to furnish a certification or provide such additional information as required in paragraph (4) above or as requested by the Contracting Officer may render the Offeror non-responsible. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph (1) above. The knowledge and information of an Offeror is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

(B) "Principal", for the purposes of this certification, means an officer, managing member, director, owner, partner, or a person having primary management or supervisory responsibilities within a business entity.

(C) Federal taxes are considered delinquent if both of the following criteria apply: (i) the tax liability is finally determined. The liability is finally determined if it has been assessed. A liability is not finally determined if there is a pending administrative or judicial challenge. In the case of a judicial challenge to the liability, the liability is not finally determined until all judicial appeal rights have been exhausted. (ii) The taxpayer is delinquent in making



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payment. A taxpayer is delinquent if the taxpayer has failed to pay the tax liability when full payment was due and required. A taxpayer is not delinquent in cases where enforced collection action is precluded.

Examples. (i) The taxpayer has received a statutory notice of deficiency, under I.R.C. § 6212, which entitles the taxpayer to seek Tax Court review of a proposed tax deficiency. This is not a delinquent tax because it is not a final tax liability. Should the taxpayer seek Tax Court review, this will not be a final tax liability until the taxpayer has exercised all judicial appeal rights. (ii) The IRS has filed a notice of Federal tax lien with respect to an assessed tax liability, and the taxpayer has been issued a notice under I.R.C. § 6320 entitling the taxpayer to request a hearing with the IRS Office of Appeals contesting the lien filing, and to further appeal to the Tax Court if the IRS determines to sustain the lien filing. In the course of the hearing, the taxpayer is entitled to contest the underlying tax liability because the taxpayer has had no prior opportunity to contest the liability. This is not a delinquent tax because it is not a final tax liability. Should the taxpayer seek tax court review, this will not be a final tax liability until the taxpayer has exercised all judicial appeal rights. (iii) The taxpayer has entered into an installment agreement pursuant to I.R.C. § 6159. The taxpayer is making timely payments and is in full compliance with the agreement terms. The taxpayer is not delinquent because the taxpayer is not currently required to make full payment. (iv) The taxpayer has filed for bankruptcy protection. The taxpayer is not delinquent because enforced collection action is stayed under 11 U.S.C. 362 (the Bankruptcy Code).



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### CONFLICTS CERTIFICATION AND DISCLOSURE

The Offeror certifies that neither it nor any of its contractors or subcontractors include any person who has an interest, direct or indirect, in this proposed contract and who during his or her tenure, or for one (1) year thereafter, is:

- a) A present or former member or officer of the BRHP's Board of Directors (except tenant-commissioners) or any member of a director's immediate family\*.
- b) Any BRHP employee who formulates policy or who influences decisions with respect to BRHP project(s) that are connected to this proposed contract, or any member of the employee's immediate family, or the employee's partner.
- c) Any public official, member of a governing body, or State or local legislator, or any member of such individuals' immediate family who exercises functions or responsibilities with respect to these programs.
- d) A member of or delegate to the Congress of the United States of America or a resident Commissioner (defined as an individual appointed to oversee a territory or possession of the United States of America, such as Guam).

\*The term "Immediate family" member means the spouse, mother, father, brother, sister, or child of a covered class member whether related as a full blood relative, or as a "half or "step" relative (e.g., half-brother or stepchild).

The Offeror must disclose any potential conflicts of interest for organizations and individuals listed in its proposal which includes, but is not limited to, the owner, developer, architect, management, officers and principal members, shareholders, investors, and any other related party. Please identify any potential conflicts below:

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**IN WITNESS WHEREOF**, the undersigned has hereunto affixed his name this \_\_\_ day of \_\_\_\_\_, 20\_\_.

**WITNESS/ATTEST:**

\_\_\_\_\_  
Print Name:

**OFFEROR:**

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

Name:

Title:



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## Fair Housing and Project Accessibility Certification

(1) I, \_\_\_\_\_, hereby certify on behalf of \_\_\_\_\_ (insert name of Offeror/Firm) and its key principals, associates and staff, that we:

- (A) Will comply with all federal, state and local laws prohibiting discrimination, providing accessibility and requirements promoting fair housing with respect to the marketing and leasing of both assisted and non-assisted units in the proposal;
- (B) Understand that prohibitions against discrimination include that the owner may not refuse to lease units to, or otherwise discriminate against any person or family in leasing of a unit, because of race, color, creed, religion, sex, national origin, disability, marital status, sexual orientation, gender identity, or familial status. Also, the owner may not refuse to lease contract units to, or otherwise discriminate against any person or family in leasing a unit because they are using a Housing Choice Voucher and must comply with federal requirements as set forth in the HAP contract; and
- (C) Understand all of the accessibility obligations under the Section 504 of the Rehabilitation Act of 1973, Uniform Federal Accessibility Standards, The American with Disabilities Act, Architectural Barriers Act Accessibility Guidelines, and Fair Housing Act Accessibility, as well as any State or local building code which stipulates accessibility standards for residential and facility construction and rehabilitation.

(2) The Offeror shall provide immediate written notice to BRHP if, at any time prior to contract award, the Offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

(3) The certification in paragraph (1) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Offeror knowingly rendered an erroneous certification, in addition to other remedies available to the Government, BRHP may terminate the contract resulting from this award for default.

(4) Where the Offeror is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this certification form.

Offeror (Firm): \_\_\_\_\_ Date: \_\_\_\_\_

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

Name:

Title: